

Spearman, Gina v. Broker Solutions, Inc. Et Al

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GINA SPEARMAN,

Plaintiff,

Case No:

vs.

1:20-cv-04981-CAP

BROKER SOLUTIONS, INC.,

d/b/a NEW AMERICAN FUNDING,

Defendant.

DEPOSITION OF

JIM MUTH

March 29, 2022

1:52 p.m.

TAKEN BY REMOTE VIDEO CONFERENCE

LaRita J. Cormier, RPR, CCR-2578

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20
21 Also present:

22 Ken Block, NAF General Counsel

23 Andrew Westle, NAF Senior Counsel

1 JIM MUTH,
2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. HARGROVE:

6 Q. Good afternoon over here; and good morning
7 I guess for another hour over there, Mr. Muth. I'm
8 Travis Hargrove. I represent Gina Spearman in this
9 action that has been filed against New American
10 Funding that's pending in the United States District
11 Court for the Northern District of Georgia, and I'm
12 here to take your deposition today.

13 MR. HARGROVE: Henry, are you good with the
14 usual stipulation?

15 MR. PERLOWSKI: Yes, Travis.

16 BY MR. HARGROVE:

17 Q. And I just want to make sure I'm
18 pronouncing your name right. It's "Muth," not
19 "Mooth"; correct?

20 A. Correct.

21 Q. Okay. Mr. Muth, you have the right to read
22 and sign this deposition, or that's something that
23 you can choose to waive. You can speak with your
24 counsel and just let the court reporter know about
25 that. That's just something I like to advise

1 everyone of during the deposition.

2 MR. PERLOWSKI: We'll read and sign.

3 BY MR. HARGROVE:

4 Q. Have you ever been deposed before,
5 Mr. Muth?

6 A. No.

7 Q. All right. Well, let me just walk you
8 through, and some of this may be a little
9 repetitive, but let me walk you through the process.
10 I'm going to be asking you questions. It's a little
11 bit unique because, often, these would be in person
12 rather than on a screen. So first off, if you don't
13 hear my question or if I freeze or something, you
14 know, raise your hand, stomp your feet, do something
15 so that I know that, and then we'll stop and fix the
16 technical difficulty.

17 But one thing that I am going to need,
18 because the court reporter is going to be taking
19 down everything that I say and everything that you
20 say and anyone else says, is that I'm going to need
21 you to give me verbal responses. So sometimes
22 uh-huhs or huh-uhs or head nods, we'll just do that
23 in normal communication, but in deposition, we need
24 yes, no, and verbal responses. So if I tell you I
25 need a verbal response after you've answered a

1 question, I'm not trying to be rude. I just want to
2 make sure that the record accurately reflects what
3 was stated here to me. Fair enough?

4 A. Yes.

5 Q. Next, if you need a break at any time for
6 any reason today, that's fine. This is not an
7 exercise in endurance. I hope to get you out of
8 here as quickly as possible, but we do have a fair
9 amount of material that we need to cover. But if
10 you need a break, I would ask that you finish any
11 question that's pending at the time before we take
12 the break. Fair enough?

13 A. (The witness nods.)

14 Q. I actually didn't hear you that time.
15 You're cutting out a little bit. Hopefully it will
16 clear up.

17 Next, if -- the questions I'm asking you
18 today, I'm not trying to ask you trick questions.
19 I'm trying to ask you direct questions so I can find
20 out what you know or what you may not know about
21 this litigation. So to that end, if I ask you a
22 question and it's unclear or you do not understand
23 it, I need you to tell me that so that I can then
24 rephrase or ask the question in a better way so that
25 you do understand it. Fair enough?

1 A. Yes.

2 Q. And if I ask you a question and you don't
3 understand it but you don't tell me that, the record
4 is not going to reflect your lack of understanding
5 of the question. Fair enough?

6 A. Yes.

7 Q. All right. Do you have any questions about
8 any of those ground rules?

9 A. No.

10 Q. Are you fine with abiding by them?

11 A. I'm sorry, what was that?

12 Q. Are you okay with abiding by them today?

13 A. I couldn't hear what you were saying.

14 Q. Are you okay with abiding by those ground
15 rules today?

16 A. Yes.

17 Q. And then one other one that I always get
18 reminded of, these will get conversational. I'm
19 going to try my best to let you finish your answer.
20 You try your best to let me finish my question.
21 Sometimes one of us may anticipate what the other is
22 going to say, but the court reporter can only take
23 down what one of us is saying at a time. Fair
24 enough?

25 A. Yes.

1 Q. Great. Could you state your full name for
2 the record?

3 A. Jim Muth.

4 Q. All right. And Mr. Muth, where do you
5 currently reside?

6 A. In California.

7 Q. All right. In Tustin?

8 A. In Newport Beach.

9 Q. Newport Beach? Okay. Are you testifying
10 from the company offices in Tustin right now?

11 A. No.

12 Q. From home?

13 A. Yes.

14 Q. Got you. All right. And you live in
15 Newport Beach. Do you have any connections to the
16 state of Georgia of any sort, relatives?

17 A. Relatives.

18 Q. You do?

19 A. Yes.

20 Q. All right. And do those relatives live in
21 the Atlanta area?

22 A. In Athens.

23 Q. Okay. All right. If they're in Athens,
24 they would be Middle District, not Northern
25 District. So no relatives that live -- other than

1 some relatives who live in Athens, no relatives in
2 the state of Georgia?

3 A. No.

4 Q. And just in case, what are those relatives'
5 names?

6 A. Danine and Shawn Glynn.

7 Q. All right. Anybody else?

8 A. No.

9 Q. All right. Have you ever lived in the
10 state of Georgia?

11 A. No.

12 Q. Have you ever been to the state of Georgia?

13 A. Yes.

14 Q. All right. And was that a work-related
15 purpose for which you came to the state of Georgia?

16 A. No.

17 Q. All right. Got you. So your job at NAF
18 has never taken you to Georgia, then; correct?

19 A. No.

20 Q. No, it's not correct or no, not --

21 A. No, it's never taken me to Georgia.

22 Q. Okay. Got you. All right. Are you a
23 member of any civic organizations, national
24 organizations, anything like that?

25 A. No. You broke up a little there.

1 Q. I haven't said anything since asking you
2 about civic organizations.

3 A. Oh, okay.

4 Q. All right. Can you walk me through your
5 educational background briefly?

6 A. Yes. I went to Cal State Fullerton,
7 studied business.

8 Q. Okay. And did you graduate?

9 A. Yes.

10 Q. What year did you graduate?

11 A. 2009.

12 Q. All right. And did you have a major at Cal
13 State Fullerton?

14 A. Business admin.

15 Q. All right. And did you grow up in
16 California?

17 A. Yes.

18 Q. After you got your undergraduate degree in
19 business administration, did you pursue any further
20 education?

21 A. No.

22 Q. Have you had any postgraduate courses of
23 any sort?

24 A. No.

25 Q. Walk me through your work history, starting

1 with after you graduated from Cal State Fullerton in
2 2009.

3 A. In 2009, I was working for LendingTree
4 loans.

5 Q. What did you do for LendingTree?

6 A. I was a junior analyst.

7 Q. What does a junior analyst do?

8 A. Run various reports, metrics, KPIs.

9 Q. Did you say KPIs?

10 A. Yes.

11 Q. What's a KPI?

12 A. Key performance indicator.

13 Q. What is a key performance indicator?

14 A. Just measures how the company is
15 performing, whether it's production, volumes, that
16 sort of thing.

17 Q. So as an analyst for LendingTree, you
18 weren't actually generating loans, you were
19 reviewing the financials that came in and then
20 providing reports based on those figures?

21 A. Correct.

22 Q. I didn't hear you. I'm sorry?

23 A. Correct.

24 Q. All right. And how long did you stay at
25 LendingTree?

1 A. I was at LendingTree for five years, but
2 part of it, it was acquired by another company.

3 Q. Okay. From about 2009 to about 2014, you
4 were with LendingTree. And during that time,
5 LendingTree was acquired by someone else?

6 A. Correct.

7 Q. Did you advance from -- you were initially
8 employed as an analyst at LendingTree. Did you
9 advance beyond the analyst title during your five
10 years?

11 A. Yes.

12 Q. And can you walk me through your
13 advancement within LendingTree, and then the company
14 that later acquired it?

15 A. So I went from an analyst to a senior
16 analyst.

17 Q. Okay. What was the difference between
18 being an analyst and a senior analyst?

19 A. Not much.

20 Q. I would assume there was a pay raise, since
21 you got a new title, hopefully?

22 A. Correct.

23 Q. Okay. Did you get more duties than you had
24 as an analyst?

25 A. Over time.

1 Q. Okay. What -- and what additional
2 duties -- you told me what you did as an analyst.
3 What additional duties did you obtain over time?

4 A. Forecasting.

5 Q. And would that be forecasting future
6 performance of the company? I didn't hear you.
7 Every now and again, it's blipping. Go ahead. I
8 still didn't pick you up.

9 A. Correct.

10 (Off-the-record discussion.)

11 MR. HARGROVE: Would you mind reading
12 the last question back to him?

13 THE REPORTER: Sure.

14 (The reporter read the requested material.)

15 BY MR. HARGROVE:

16 Q. Okay. Good. I just want to make sure,
17 since there was a little bit of a gap there.

18 So did you take the econometrics class in
19 college when you were obtaining your business
20 degree, or a forecasting class?

21 A. No.

22 Q. All right. Where did you obtain the
23 expertise to perform forecasting as a senior
24 analyst?

25 A. The job.

1 Q. On-the-job training?

2 A. Yes.

3 Q. Okay. All right. Any other duties that
4 you picked up, other than forecasting, when you
5 became a senior analyst for LendingTree?

6 A. No.

7 Q. While you were at LendingTree, what city
8 were you based out of?

9 A. In Irvine, California.

10 Q. Who was it that acquired -- well, before I
11 get to that, did you advance beyond senior analyst
12 at LendingTree?

13 A. No.

14 Q. It cut out again. I could read your lips
15 and see what you were saying, but it needs to be on
16 the record.

17 A. No.

18 Q. All right. And who acquired LendingTree?

19 A. Discover Financial Services.

20 Q. Discover Financial Services?

21 A. Yes.

22 Q. All right. And do you remember about when
23 that occurred?

24 A. Not off the top of my head.

25 Q. Okay. When Discover acquired LendingTree,

1 did you have a change in title at that point?

2 A. No.

3 Q. Approximately how long did you remain with
4 what was now Discover -- well, let me go back.

5 When Discover acquired it, did LendingTree
6 lose its name or just become Discover or just become
7 a division of Discover?

8 A. Became a division of Discover.

9 Q. All right. And you at some point departed
10 from LendingTree. Did that have anything to do with
11 the acquisition by Discover?

12 A. Say that again.

13 Q. Did your departure from LendingTree have
14 anything to do with the fact LendingTree was
15 acquired by Discover?

16 A. I never departed LendingTree.

17 Q. You never departed LendingTree?

18 A. No.

19 Q. Okay. So you're still with LendingTree
20 today?

21 A. No.

22 Q. Okay. Explain that to me, if you never
23 departed, how you're not with them today.

24 A. They were acquired and absorbed by
25 Discover.

1 Q. Okay. So -- and it was known as a --
2 LendingTree was a division of Discover at that
3 point, so it was still called LendingTree; correct?

4 A. No.

5 Q. Okay. It's not a huge part, but I'm just
6 trying to figure out, Discover acquired LendingTree,
7 and then the sign on the wall said Discover the next
8 day and not LendingTree anymore?

9 A. Correct.

10 Q. Okay. I got confused earlier, which
11 happens from time to time. So you departed from
12 Discover at some point; correct?

13 A. Correct.

14 Q. All right. While you were at Discover, as
15 opposed to LendingTree, did your title change beyond
16 senior analyst?

17 A. No.

18 Q. All right. When you departed from -- well,
19 tell me about the circumstances of your departure
20 from Discover.

21 A. I don't understand the question.

22 Q. All right. You don't work at Discover
23 anymore; correct?

24 A. Correct.

25 Q. Why don't you work for Discover anymore?

1 A. I left Discover.

2 Q. Okay. And when you left Discover, what
3 were the circumstances? Did you find another job?
4 Did you want to do something else? What were the
5 circumstances behind you leaving Discover?

6 A. For another job.

7 Q. And where was that other job that you
8 found?

9 MR. PERLOWSKI: Travis, I'm sorry. I
10 didn't hear that last response. I don't know
11 whether it's the connection. I know sometimes
12 you're having difficulty with it. Seems like you
13 heard that last one, but I didn't.

14 (Off-the-record discussion.)

15 (The reporter read the requested material.)

16 BY MR. HARGROVE:

17 Q. Let's pick up there. Where was that other
18 job?

19 A. After Discover?

20 Q. After Discover, yes.

21 A. loanDepot.

22 Q. And where were you physically based for
23 loanDepot?

24 A. Foothill Ranch.

25 Q. California?

1 A. (The witness nods.)

2 Q. I didn't hear your answer that time.

3 A. Correct.

4 Q. Okay. And it might be an issue that your
5 mic's not picking it up, I don't know. But anyway,
6 I'll let you know if I don't hear.

7 And what was your job title from loanDepot?

8 A. Senior financial analyst.

9 Q. All right. And what did you do as a senior
10 financial analyst for loanDepot?

11 A. I did financial reporting.

12 Q. All right. Similar financial reporting to
13 what you did with LendingTree/Discover?

14 A. Less forecasting, more just reporting.

15 Q. All right. And again, you were not
16 actively involved in making the loans, you were
17 reporting on the revenue that was coming in from the
18 loans being generated; correct?

19 A. Correct.

20 Q. And in your role as -- you said financial
21 analyst was the title?

22 A. Senior financial analyst.

23 Q. All right. Did you have people working
24 under you?

25 A. No.

1 Q. All right. Any other duties as a senior
2 financial analyst that you haven't told me about?

3 A. No.

4 Q. In your duties for loanDepot, did any of
5 your analysis relate to corporate expenses as they
6 were allocated to specific branches of loanDepot?

7 A. No.

8 Q. Did you progress beyond being a senior
9 financial analyst for loanDepot?

10 A. No.

11 Q. All right. How long did you stay at
12 loanDepot?

13 A. About a year and a half.

14 Q. All right. And what were the circumstances
15 behind your departure from loanDepot?

16 A. Went to another company.

17 Q. All right. To which company did you go?

18 A. Stearns.

19 Q. And what does Stearns do?

20 A. Mortgage lending.

21 Q. Okay. And where were you based while with
22 Stearns?

23 A. In Santa Anna, California.

24 Q. And what was your job title with Stearns?

25 A. Senior financial analyst.

1 Q. All right. So that was the same job title
2 that you had with loanDepot; correct?

3 A. (Inaudible.)

4 Q. I didn't hear you.

5 A. Correct.

6 Q. Okay. All right. And did you progress
7 beyond being a senior financial analyst for Stearns?

8 A. No.

9 Q. All right. How long did you stay at
10 Stearns?

11 A. A year, year and a half.

12 Q. In your financial analyst duties at
13 Stearns, did you address allocation of corporate
14 expenses amongst branches of Stearns?

15 A. No.

16 Q. And at some point you departed from
17 Stearns; correct?

18 A. Correct.

19 Q. And where did you go after Stearns?

20 A. New American Funding.

21 Q. And the front part, you said -- all I heard
22 was American Funding, but I assume you said "New"
23 and I just didn't pick it up on the mic; correct?

24 A. Yes. New American Funding.

25 Q. All right. If I refer to New American

1 Funding as NAF, will you know what I'm talking about
2 today?

3 A. Yes.

4 Q. And what year did you go to NAF?

5 A. 2017.

6 Q. All right. And for what position were you
7 hired at NAF?

8 A. I was the AVP of corporate analytics.

9 Q. AVP of corporate analytics?

10 A. Right.

11 Q. And what -- are you still the AVP of
12 corporate analytics, or has your job title changed
13 since 2017?

14 A. It's changed.

15 Q. All right. Walk me through what you did
16 when you were the AVP of corporate analytics.

17 A. I compiled the financial data and put
18 together the financial reporting each month.

19 Q. All right. And did you have a supervisor?

20 A. Yes.

21 Q. Who was your supervisor?

22 A. Jason Obradovich.

23 Q. All right. And did you -- from where did
24 you compile the financial data?

25 A. From our general ledger software.

1 Q. What is the general ledger software called?

2 A. AMB.

3 Q. All right. Were you involved with actually
4 inputting the numbers into AMB or just extrapolating
5 them out of AMB?

6 A. Just extrapolating them.

7 Q. All right. Did you do any testing or
8 anything to make sure the numbers put into AMB were
9 accurate?

10 A. No.

11 Q. All right. So did you have a log-in for
12 the AMB system?

13 A. Yes.

14 Q. All right. And describe for me how -- the
15 process you would use to take that AMB data up to a
16 financial statement.

17 A. Once logging into AMB, you can run a report
18 and extract it into an Excel spreadsheet.

19 Q. All right. And after you extracted the
20 information into an Excel spreadsheet from AMB, what
21 happened next?

22 A. So then we would compile the data together
23 based off the call centers.

24 Q. Okay. You would -- so AMB has data by cost
25 center. And you would compile that data -- that

1 data; correct?

2 A. Yes.

3 MR. PERLOWSKI: Object to the form.

4 BY MR. HARGROVE:

5 Q. I didn't hear you again.

6 MR. PERLOWSKI: I think he said correct. I
7 think. That's what I heard.

8 BY MR. HARGROVE:

9 Q. All right. And tell me, what were the cost
10 centers from which these numbers were aggregated?

11 A. I didn't understand your question.

12 Q. All right. You referenced cost centers in
13 your answer. Do you recall that?

14 A. Yes.

15 Q. All right. What are cost centers?

16 A. They're departments.

17 Q. All right. So what were the different
18 departments that were utilized or that were from
19 which numbers came out of AMB? What were those
20 departments?

21 A. They're all the departments within the
22 company.

23 Q. Okay. Tell me what the departments within
24 the company are.

25 A. I couldn't tell you that.

1 Q. Do you know how many departments there are
2 within the company?

3 A. Hundreds.

4 Q. There's hundreds of departments?

5 A. Yes.

6 Q. All right. Name some of the departments
7 that you know of.

8 A. For example, finance would be a department.

9 Q. Okay.

10 A. Accounting would be a department.

11 Q. I'm sorry, I didn't hear the first part of
12 it.

13 A. Accounting.

14 Q. Accounting. All right. IT, is that a
15 department?

16 A. IT would be a department.

17 Q. All right. So -- and what I was getting
18 mixed up with -- so there's different departments in
19 the company. I thought you were speaking about the
20 divisions of the company. I'm sure we'll get there
21 at some point.

22 So you received into AMB financial data for
23 each department of the company; correct?

24 A. Correct.

25 Q. And then you went to AMB, extrapolated that

1 data into spreadsheets, correct, or into Excel
2 spreadsheets; correct?

3 A. Correct.

4 Q. All right. What happened after the data
5 was extrapolated into the Excel spreadsheets?

6 A. It would put together the branch-level
7 reporting.

8 Q. All right. And how would you go about
9 putting together the branch-level reporting?

10 A. You would align the costs being booked for
11 the branches to the loans that are funded with the
12 branches.

13 Q. All right. You would align the costs for
14 the branches with the loans being funded by the
15 branches? Did I hear that correct?

16 A. Correct.

17 Q. All right. And how would we go from a
18 spreadsheet generated -- extrapolated from AMB to
19 branch-level cost and loan reconciliation?

20 MR. PERLOWSKI: Object to the form.

21 You can answer.

22 A. I'm sorry, can you repeat the question?

23 BY MR. HARGROVE:

24 Q. Sure. You said ultimately there was
25 branch-level reporting based on costs for the branch

1 and loans generated by the branch; correct?

2 A. Correct.

3 Q. All right. Is there another step, or do
4 the spreadsheets that are extrapolated from AMB give
5 you that branch-level data that you just testified
6 about?

7 A. The AMB does not provide that data.

8 Q. Okay. Does extrapolating the AMB into
9 Excel spreadsheets give you that data?

10 A. Eventually.

11 Q. All right. How do we get to the eventually
12 where that happens? What happens next?

13 A. So the AMB gives us the branch expense, and
14 then you pull the loans that are funded by that
15 branch and apply that.

16 Q. So the loans that are funded by branch are
17 not part of AMB?

18 A. No, they're not in AMB.

19 Q. So AMB deals with expenses. Where do the
20 loans by branch come from? Where do you get that
21 information?

22 A. (Inaudible) -- to me.

23 Q. The first part of the answer, I couldn't
24 hear.

25 A. It's provided to me.

1 Q. Who provides it to you?

2 A. Capital markets.

3 Q. All right. Now, what is capital markets?

4 A. A department.

5 Q. It's a department within the company?

6 A. Correct.

7 Q. All right. What does capital markets do?

8 A. They are in charge of pricing the margins.

9 Q. Okay. So are -- they're also in charge of
10 gathering the branch-level loan data, I take it?

11 A. Correct.

12 Q. All right. So capital markets provides you
13 the branch-level loan data; AMB provides you
14 branch-level expenses; and then you create, for
15 whatever time period, branch-level profit and loss
16 statements?

17 A. Correct.

18 Q. All right. Is there any further software,
19 such as Kevlar, that is utilized in preparing those
20 branch level reports?

21 A. To prepare them? No.

22 Q. Okay. So what else happens once you have
23 the expenses from AMB and the branch-level loan
24 figures from capital markets, what happens next?
25 How do we get from that to a financial statement?

1 A. Repeat.

2 Q. You get the expenses from AMB. You get the
3 loan data from the capital markets department. How
4 do we go from that to a financial statement, a
5 profit and loss statement by branch?

6 A. When you combine the revenue from capital
7 markets and the expenses from AMB, that's your
8 profit and loss report.

9 Q. All right. Is there a medium that is used
10 to prepare that profit and loss report using that
11 data?

12 A. Excel.

13 Q. Okay. So Excel spreadsheets are generated
14 by branch level showing the profit and loss. And
15 are those -- what is the timing? Are those monthly,
16 quarterly, yearly? What's the timing of the
17 preparation of those statements?

18 A. We do them monthly.

19 Q. All right. So at the beginning of your
20 tenure, when you began to be employed by NAF -- and
21 what was your title again? I know I asked it
22 before, but you had a few of them. What was the
23 title again?

24 A. AVP of corporate analytics.

25 Q. All right. So you brought in the -- you

1 brought in all this information, you put it into an
2 Excel spreadsheet. Did anything happen with that
3 spreadsheet after you prepared it?

4 A. We would load it to Kevlar.

5 Q. All right. And what was the purpose of
6 loading the Excel spreadsheet to Kevlar?

7 A. To view it.

8 Q. All right. When you say "to view it," was
9 it an easier medium to view it in than just looking
10 at an Excel spreadsheet?

11 A. Correct.

12 Q. All right. And my understanding is that in
13 reviewing -- that Kevlar, you were not able to
14 change information in there, you would have to
15 change the underlying spreadsheet and then re-upload
16 it to generate something different. Is my
17 understanding accurate?

18 A. I don't understand -- Kevlar couldn't
19 change anything.

20 Q. Okay. Kevlar simply is a medium to display
21 the work you did in the Excel spreadsheet; correct?

22 A. That's correct.

23 Q. And for a number to change in Kevlar, one
24 would have to go back to the Excel spreadsheet and
25 change something in that, then reload it into

1 Kevlar; correct?

2 A. (Inaudible.)

3 Q. I read your lips, but I didn't hear it,
4 just so it's on the record.

5 A. Correct.

6 Q. All right. And is -- as an AVP, that
7 was -- that was your role. Is that a role that you
8 have kept, or did that role cease at some point?

9 MR. PERLOWSKI: Object to the form.

10 You can answer.

11 A. I'm sorry, can you repeat it for me?

12 BY MR. HARGROVE:

13 Q. Sure. In your initial hiring by the
14 company, you described for me the process that you
15 would generate branch-level financial reports,
16 profit and loss statements; correct?

17 A. Correct.

18 Q. Did you say correct?

19 A. Correct.

20 Q. All right. Is that a duty that you have
21 maintained your whole tenure with NAF up until
22 present, or did that duty go away at some point?

23 A. I maintained that.

24 Q. Okay. In preparing these branch-level
25 financial statements, it is my understanding that

1 there are also allocations in addition to the
2 branch-level expenses that are called corporate
3 margin expenses. Is my understanding correct?

4 A. No.

5 Q. No, it's not?

6 A. What you just said doesn't make sense to
7 me.

8 Q. Okay. Can you explain to me, then, aside
9 from the branch-level expenses, any other expenses
10 that you use in preparing the branch-level financial
11 statements?

12 A. Corporate allocations.

13 Q. Okay. And what are corporate allocations?

14 A. Corporate allocations are costs at the
15 corporate level.

16 Q. All right. And what is the corporate
17 level?

18 A. For example, the accounting department.

19 Q. Okay. And just so that we're all on the
20 same page, at the corporate level, meaning not a
21 branch level; correct?

22 A. Correct.

23 Q. So you're speaking of the accounting
24 department, by way of example, in Tustin,
25 California; correct?

1 A. (Inaudible.)

2 Q. It didn't pick it up.

3 A. Correct.

4 Q. Okay. And some portion of the expense of
5 that accounting department is allocated to each
6 region; correct?

7 A. Correct.

8 Q. All right. In your preparation of the
9 financial statements on a monthly basis for each
10 branch, explain to me how, in the process of pulling
11 AMB expense and getting information from capital
12 markets on loan generation, how those corporate
13 allocations are factored into, if at all, the
14 ultimate product being the profit and loss for the
15 branch for a month.

16 A. The corporate costs are allocated out to
17 the business, so that would be all of the different
18 various branches.

19 Q. All right. How are those corporate costs
20 allocated to the various branches?

21 A. Can you resay the question again?

22 Q. Sure. How are those corporate allocations
23 allocated to the various branches?

24 A. Based off of funded units.

25 Q. Okay. What is a funded unit?

1 A. A loan.

2 Q. All right. Tell me how funded units are
3 used to calculate a given branch's percentage of
4 corporate allocations.

5 A. Sorry, can you say that again?

6 Q. Sure. Tell me how a branch's funded units
7 are used to calculate the amount of corporate
8 allocations that will be attributed to a given
9 branch.

10 A. So it would take the total corporate costs
11 and divide it over the number of funded units to get
12 a cost per unit.

13 Q. So a branch that has more loan volume is
14 going to pay a larger percentage of corporate
15 allocations under that system; correct?

16 A. I don't quite understand the question.

17 Q. All right. You said that the -- all the
18 funded units were aggregated together, and then an
19 amount per funded unit of corporate allocations is
20 figured out; correct?

21 A. Correct.

22 Q. And then per branch, you multiply that
23 amount, that per-unit amount by the number of funded
24 units that branch had; correct?

25 A. Correct.

1 Q. All right. So a branch that had more
2 funded units is going to have more corporate
3 allocations placed into its column; correct?

4 A. Total dollar, yes.

5 Q. I didn't hear the first part of your
6 response. I'm sorry.

7 A. Total dollar, yes.

8 Q. Okay. So total dollars. So you qualified
9 your response instead of just saying yes by saying
10 "total dollar, yes." Is there some other way that
11 it would be figured?

12 A. Well, you said that they were being
13 allocated more. They're all being allocated the
14 same on a per dollar.

15 Q. On a per dollar or per funded unit?

16 A. Dollar per funded unit.

17 Q. Okay. So if the southeast has 10 funded
18 units and the northeast has one funded unit, then
19 the southeast is going to have 10 times more
20 corporate allocation attributed to it than the
21 northeast; correct?

22 A. Correct.

23 Q. All right. In figuring out these corporate
24 allocations, is there any consideration other than
25 solely the number of funded units used?

1 A. No.

2 Q. All right. So by way of example, if there
3 was a -- something that one branch did that caused
4 corporate -- let's say a branch got sued or
5 something that one branch did caused the company to
6 get sued and the company incurred legal fees. Those
7 fees would not be attributed just to that branch,
8 they would be attributed based on funded units
9 spread out amongst all the branches; correct?

10 A. Correct.

11 Q. Okay. And are you involved at all in the
12 aggregation of the expenses that form the total of
13 the corporate allocations?

14 MR. PERLOWSKI: Object to the form.

15 A. What do you mean by that?

16 BY MR. HARGROVE:

17 Q. Let me ask again because Henry objected,
18 and then I didn't pick up part of your answer. So
19 are you involved, in your position with the company,
20 in calculating the total corporate allocation amount
21 that has been split amongst the branches?

22 A. No.

23 Q. Where does that information come from?

24 A. AMB.

25 Q. Okay. So AMB has the branch-level expenses

1 in it; correct?

2 A. Yes.

3 Q. And it has the corporate allocation
4 expenses in it; correct?

5 A. Yes.

6 Q. The corporate-level expenses, how are those
7 input into AMB?

8 A. I'm not aware of it.

9 Q. All right. But when you go into AMB, they
10 are there; correct?

11 A. Correct.

12 Q. All right. Do you do any sort of testing
13 or verification of any of the corporate allocation
14 expenses before preparing a monthly financial profit
15 and loss for a branch?

16 A. No.

17 Q. Okay. When the corporate -- well, let me
18 go back.

19 Okay. Step back to now. We get to the
20 point where the information is put into Excel. So
21 the AMB information put into Excel includes the
22 branch-level expenses and it includes the corporate
23 allocations; correct?

24 A. It includes the corporate costs.

25 Q. Okay. It includes the corporate costs and

1 it includes the branch-level costs; correct?

2 A. Correct.

3 Q. And when I said "corporate allocations,"
4 you said "corporate costs," I want to make sure
5 we're talking about the same thing. The corporate
6 cost is what then becomes the corporate allocation
7 to the different branches; correct?

8 A. Correct.

9 Q. All right. So whatever corporate costs
10 there are are allocated to the branches and then
11 called corporate allocations; correct?

12 A. Correct.

13 Q. There are also, it is my understanding,
14 corporate allocations that are attributed to the
15 cost center; is that accurate?

16 A. What do you mean by that?

17 Q. All right. Do you understand that there
18 are -- that there is a retail division that includes
19 the branches and includes a call center for NAF? Do
20 you understand that?

21 A. No.

22 Q. All right. What do you understand to be
23 not the departments but the divisions of NAF?

24 A. Divisions?

25 Q. Yes.

1 A. So, like, retail would be a division.

2 Q. Okay. Is retail split into any
3 subdivisions?

4 A. Yes.

5 Q. All right. What are those subdivisions
6 that retail is split into?

7 A. Regions.

8 Q. I couldn't hear you.

9 A. Regions.

10 Q. Regions, okay. All right. Anything other
11 than regions?

12 A. No. I mean, regions then become branches.

13 Q. Let's take a step back. Do you understand
14 that there is also a call center that NAF has
15 separate and apart from the regions?

16 A. Yes.

17 Q. Okay. And that call center, where would it
18 fall? Would it fall under the retail division, or
19 is it an entirely separate division?

20 A. Separate.

21 Q. Okay. So the retail division is only the
22 regions, then there's a call center that's a
23 separate division. Are any of the corporate --
24 well, let me go back.

25 Are you involved at all in computing the

1 financials for the call center division of NAF?

2 A. Yes.

3 Q. All right. Explain to me your role in that
4 regard.

5 A. Putting together the financials for the
6 call center.

7 Q. Yes. How do you put together the
8 financials for the call center?

9 A. Same way we do for retail.

10 Q. Okay. So you have the AMB information that
11 is for the call center, the expenses of the call
12 center; correct?

13 A. Correct.

14 Q. All right. And you said capital markets is
15 who gave you the loan volume for the branches. Is
16 that who also gives you the loan volume for the call
17 center?

18 A. Yes.

19 Q. All right. And you take those numbers and
20 extrapolate them into a spreadsheet; correct?

21 A. Correct.

22 Q. And in those figures, it's some portion of
23 what you referred to as the corporate expense
24 attributed to the call center?

25 A. Yes.

1 Q. All right. How is that done for the call
2 center?

3 A. Number of units.

4 Q. All right. So is the number of units an
5 aggregate of all of the units between the call
6 center and the -- and what you referred to as the
7 retail division, and then those expenses are divided
8 up, or is it separately done between the call center
9 and the retail division, as you referred to it?

10 A. Say that again.

11 Q. All right. On a per-unit basis when you're
12 making these calculations, do you aggregate all of
13 the funded units together from both the retail
14 division and the call center, and then take the cost
15 and divide it up? Or is there a separate
16 calculation for the call center per unit and a
17 separate allocation for the retail division per
18 unit?

19 A. Separate.

20 Q. Separate. Okay. How is it determined what
21 percentage of the retail division, what
22 percentage -- let me start over.

23 How is it determined the percentage of the
24 corporate costs attributed to the retail division as
25 opposed to the call center division?

1 A. The split, is that what you're referring
2 to?

3 Q. The split, yes, how is that determined?

4 A. Between the retail and the call center?

5 Q. Yes.

6 A. Yes.

7 Q. How is it determined?

8 A. For the call center assigned for retail?

9 Q. Let me see if I can clarify. Let's say
10 that there's a hundred dollars of corporate expense.
11 I've got the retail division, I've got the call
12 center. How do I determine who gets hit with what
13 amount of that hundred dollars?

14 A. The units.

15 Q. All right. And I asked you earlier -- and
16 let me just use numbers and see if I can make it
17 clearer. If the call center has three units and
18 retail had 10 units, do I add that up and say, okay,
19 there's 13, so I divide 100 by 13 and that's my
20 per-unit cost, or is there a separate calculation
21 that I do for the call center division and then the
22 retail division?

23 A. Separate. So we would determine the cost
24 for the retail, and then we would determine the cost
25 for the call center and then divide each of those

1 costs by the number of units for each of those two
2 divisions.

3 Q. All right. How do you determine how much
4 of the cost is going to be attributed to the call
5 center as opposed to the regions before that
6 calculation is made?

7 A. Some expenses are directly related to one
8 or the other.

9 Q. Some expenses are directly related to one
10 or the other? Okay. What are the expenses that are
11 attributable only to the retail division?

12 A. I guess it's more on the call center side.

13 Q. Okay. So what are the ones that are
14 attributable only to the call center side?

15 A. For example, the dialer system.

16 Q. Okay. So if I look at the dialer system,
17 there would not be any costs from the dialer system
18 attributed to the branches; correct?

19 A. Correct.

20 Q. All right. Is there a document that breaks
21 out which costs are attributable solely to the call
22 center as opposed to the regions?

23 A. Not that I'm aware of.

24 Q. All right. If I wanted to figure that
25 out -- you have to figure it out from somewhere;

1 correct?

2 A. Correct.

3 Q. All right. So what is the raw data that
4 you use to do that breakdown?

5 A. AMB.

6 Q. All right. Does AMB break down by call
7 center or regions' expenses?

8 A. I don't follow you.

9 Q. All right. You referenced the dialer
10 system as something that was only attributable to
11 the call center; correct?

12 A. Correct.

13 Q. All right. Does AMB have a column or
14 something within it that aggregates the expenses for
15 corporate allocations that only come from the call
16 center?

17 A. No.

18 Q. All right. How do you know or how do you
19 figure out, then, which expenses get allocated only
20 to the call center?

21 A. I'm looking at the different vendors.

22 Q. Looking at the vendors?

23 A. Yes.

24 Q. All right. So you go into the AMB system
25 each month and you look at each line item of

1 corporate expense, and then you know, based on your
2 experience, which items of corporate expense get
3 moved over to only the call center and not
4 considered as part of the regions; correct?

5 A. Correct.

6 Q. All right. Is there an Excel spreadsheet
7 or where -- where is that information recorded
8 either electronically or in hard copy?

9 A. It would be in Excel.

10 Q. Okay. And then that Excel is then placed
11 into Kevlar, and that's where you get your report,
12 your P&L; correct?

13 A. Eventually, it would go to Kevlar.

14 Q. I think you said initially it would go to
15 Kevlar?

16 A. Eventually.

17 Q. Okay. And in calculating those corporate
18 expenses -- so certain items are attributable only
19 to call center, and the example you used was the
20 dialer system. Are there a lot of other items
21 attributable just to the call center?

22 A. No.

23 Q. All right. How much is the dialer system
24 on a monthly basis?

25 A. I don't know off the top of my head.

1 Q. So when whatever items are removed from
2 potential costs to the regions, and we'll just
3 say -- recognizing there might be more, but let's
4 say the dialer system is set aside, are the
5 corporate allocations measured, then, by taking the
6 loan units and all of the joint, the ones that
7 aren't attributable solely to the call system, so
8 let's take that out, all right? Dialer or whatever
9 is only attributable to the call center is taken
10 out, and the call center gets hit with a hundred
11 percent of that; correct?

12 A. Correct.

13 Q. All right. The remaining amount, let's say
14 there's a hundred dollars of expense and the call
15 center has two loans and retail has two loans, how
16 do we calculate who gets what of that hundred-dollar
17 cost put in their column?

18 A. Would be allocated based off the number of
19 units.

20 Q. All right. So if each had two units --
21 funded units; right? Meaning, loans?

22 A. Correct.

23 Q. All right. So if each side had two funded
24 units, then each would have \$50 of corporate
25 expenses allocated to it; correct?

1 A. Correct.

2 Q. And then the call center would also have
3 the dialer system attributed to it; correct?

4 A. Correct.

5 Q. It didn't pick up.

6 A. Correct.

7 Q. All right. And there should be Excel
8 documents that show the dialer, by way of example,
9 or was computed in the call center but not
10 considered as part of the retail division; correct?

11 A. Correct.

12 Q. All right. During the time that you have
13 been with NAF, has there been any change in the way
14 that the corporate expenses were allocated?

15 A. Yes.

16 Q. All right. Tell me about the -- when did
17 that change occur?

18 A. It changes almost yearly.

19 Q. Okay. Was there a change between 2017 and
20 2018?

21 A. I don't know.

22 Q. All right. Well, why don't you do this.
23 Why don't you walk me through all the changes that
24 you know have occurred with the way that corporate
25 expenses were allocated.

1 A. Starting with how we're doing it now or...

2 Q. If you want to -- let's work -- let's work
3 from the way it was. I'm assuming what you told me
4 was when it started, when you started there. That's
5 what I was understanding. Am I accurate?

6 A. Yes.

7 Q. Okay. And real quick, before we get beyond
8 that, I want to ask you one other question. My
9 understanding is none of the corporate expenses are
10 allocated to the servicing division of NAF; is that
11 correct?

12 A. I don't know.

13 Q. All right. Do you have anything to do with
14 the financials of the servicing division?

15 A. No.

16 Q. All right. Is it your understanding that
17 all of the corporate expenses of the company
18 pertaining to any part are included in that figure
19 that you get for corporate expenses that gets
20 allocated between retail and then the call center?

21 MR. PERLOWSKI: Object to the form of the
22 question.

23 A. Can you say that again?

24 BY MR. HARGROVE:

25 Q. Sure. Are there any company expenses

1 that -- are there any company expenses that are not
2 allocated to either the call center or the retail
3 department?

4 A. At a point in time there was.

5 Q. All right. And what point in time was
6 that?

7 A. I don't remember.

8 Q. All right. So where were those expenses
9 allocated at that prior point in time?

10 A. To the servicing division.

11 Q. Got you. All right. So prior to 2018,
12 were there costs attributed to the servicing
13 division?

14 A. I'm not aware of that.

15 Q. Meaning, you don't know when that change
16 occurred?

17 A. Correct.

18 Q. All right. Was the change in the
19 allocation of expenses -- well, let me go back.

20 So at the time you first became employed
21 with NAF, were there expenses that were attributed
22 to the servicing division?

23 A. Yes.

24 Q. All right. And you came to NAF in 2016;
25 correct?

1 A. No.

2 Q. 2017?

3 A. The end of 2017.

4 Q. End of 2017. All right. How were expenses
5 allocated to the -- when you came in at the end of
6 2017, how were expenses allocated to the --
7 allocated to the servicing division?

8 A. On a percentage.

9 Q. All right. And how was that percentage
10 calculated?

11 A. It wasn't.

12 Q. All right. How was that percentage
13 determined?

14 A. We reached out to different departments and
15 asked them how much time they spent with servicing.

16 Q. All right. And which departments did you
17 reach out to find out how much time they spent with
18 servicing?

19 A. All corporate departments.

20 Q. All right. And you said there were
21 hundreds of corporate departments; correct?

22 A. No.

23 Q. All right. You told me there were hundreds
24 of something. It might not have been the word
25 "corporate" departments. What are the corporate

1 departments you reached out to? Let me simplify it.

2 A. So the corporate departments I reached out
3 to would be for departments such as accounting,
4 finance, IT, marketing, legal.

5 Q. Okay. All right. And you personally would
6 reach out to each of these departments and ask them
7 what percent of your time are you spending on
8 servicing?

9 A. Correct.

10 Q. Would you reach out to them by phone or
11 would you reach out to them by e-mail or some
12 electronic communication?

13 A. Probably both forms.

14 Q. All right. So there would be -- there
15 would be e-mails from you to departments up until
16 some date saying, hey, I need to know how much time
17 you spent this month on servicing versus retail and
18 call center; correct?

19 A. Correct.

20 Q. All right. And then they would respond to
21 you in writing saying these are the percentages?

22 A. Correct.

23 Q. All right. And then you would -- how would
24 you go about aggregating that to figure out the
25 percentage to allocate to the servicing division?

1 A. The percentage that they told us that
2 they -- time spent with servicing.

3 Q. All right. So you would take that
4 percentage, multiply by whatever the cost for that
5 month was for that department, and that would be the
6 amount that would get allocated to servicing?

7 A. Correct.

8 Q. All right. And then you would take the
9 balance, whatever wasn't absorbed by servicing,
10 that's what would go through the formula that you
11 gave us to figure out the per-funded-unit cost;
12 correct?

13 A. Correct.

14 Q. Okay. And at some point after you got
15 there at the end of -- when you say end of 2017, do
16 you remember what month in 2017?

17 A. November.

18 Q. All right. So you got there in November of
19 2017. And for approximately how long did you
20 continue to reach out to the servicing department to
21 find out the percentage that would be allocated to
22 the servicing department?

23 A. It wasn't long. I couldn't tell you.

24 Q. All right. So it was a short time, it was
25 a matter of a couple of months; correct?

1 A. Correct.

2 MR. PERLOWSKI: Object to the form.

3 BY MR. HARGROVE:

4 Q. All right. So after that short time, what
5 happened with respect to the servicing department
6 and corporate allocations being made to it?

7 A. So we used the same percentage that was
8 going to servicing. We didn't reach out to them
9 every single month.

10 Q. Okay. All right. For how long did you use
11 the same percentage, then, after you reached out and
12 obtained that percentage? Well, let me make sure I
13 understood.

14 You said at some point, servicing ceased
15 getting hit with any of it; correct?

16 A. Correct.

17 Q. It didn't pick up.

18 A. Correct.

19 Q. All right. Got it. Fourth time was a
20 charm.

21 All right. And so was it a short time
22 thereafter that corporate expenses ceased being
23 allocated to the servicing division?

24 A. I don't remember the timing.

25 Q. You don't remember the timing?

1 A. No.

2 Q. So it could have been -- it could have been
3 a month, it could have been two years, you don't
4 know?

5 A. It could have been --

6 MR. PERLOWSKI: Objection. Asked and
7 answered.

8 BY MR. HARGROVE:

9 Q. You can answer.

10 A. Yeah, I -- it wasn't in the last couple of
11 years. I would've remember that by now.

12 Q. Okay. So it was more than a couple years
13 ago?

14 A. Yes.

15 Q. All right. Did this happen in the middle
16 of a year, this change, or did it happen at the end
17 of a year?

18 A. I don't know when the change occurred.

19 Q. Okay. Would there be any documents that
20 would show when the change occurred?

21 A. Not that I'm aware of.

22 Q. All right. When you input information
23 into -- strike that.

24 When you were determining this cost amount,
25 at whatever month that ceased, you would be able to

1 go back and look at the Excel spreadsheet and see
2 the point at which no allocation was given to
3 servicing; correct?

4 A. If I can find the file.

5 Q. Okay. Where would you need to look to find
6 the file?

7 A. In our -- I don't know, wherever the
8 folders are on the computer.

9 Q. How was it communicated to you that no
10 further allocation of corporate expenses was to be
11 made to the servicing division?

12 A. I don't remember.

13 Q. You don't remember?

14 A. No.

15 Q. Okay. The reason I repeated that is
16 because I only heard part of your response. So you
17 don't know whether that was in writing by someone?

18 A. I don't remember.

19 Q. How much -- what was the percentage of the
20 corporate expenses that was being allocated to the
21 servicing division prior to the change allocating it
22 all to either retail or the call center?

23 A. Was minimal.

24 Q. Define "minimal."

25 A. I don't know how to define it.

1 Q. Would minimal be more or less than 10
2 percent?

3 A. It would be less than 10 percent.

4 Q. More or less than 5 percent?

5 A. Maybe around 5 percent.

6 Q. Okay. And we're going to get to some
7 documents later. The corporate -- the corporate
8 expenses, can you give me a ballpark of what they
9 are a year for now?

10 A. This year?

11 Q. Yeah, for this year. We're going to look
12 at 2018 in a little bit, but give me a ballpark for
13 this year.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. Not off the top of my head.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] [REDACTED]

25 ballpark, 5 percent of that was being allocated to

1 the servicing division, and then that went away;
2 correct?

3 A. At some point, correct.

4 Q. All right. And at that point when it went
5 away from the servicing division, the cost for
6 the -- the cost allocated to the retail division
7 went up; correct?

8 A. I don't understand.

9 Q. Well, when it was -- when servicing was no
10 longer bearing any of the expense, any of the
11 corporate expense, necessarily it went up for call
12 center and retail; correct?

13 A. Yes.

14 Q. Okay. In the documents preparing the -- in
15 the documents, the Excel spreadsheets -- well, let
16 me just go back.

17 What document, if I wanted to ask for a
18 document that -- if I wanted to ask for a document
19 that would show when this change took place, what
20 document would I need to ask for that would show
21 that?

22 A. Which change?

23 Q. The change that we've been talking about
24 with regard to corporate expenses no longer being
25 allocated to -- at all to the servicing division.

1 A. I don't believe there was a document.

2 Q. All right. You said that, but if I want to
3 see a document that would show the month in which
4 that was part of your calculation and the month at
5 which it wasn't, if I wanted to look at all those to
6 figure it out, have an expert look at those to
7 figure it out, what would be the document I would
8 need to ask to produce to me that would show, hey,
9 here's one month where some was being allocated to
10 the servicing, and here's the following month where
11 it's not?

12 A. I don't believe that exists.

13 Q. So did NAF -- does NAF not keep records of
14 its allocation of expenses from past years?

15 A. We do.

16 Q. All right. So necessarily, wouldn't there
17 be a month that was the last month that there was an
18 allocation of the corporate expenses to the
19 servicing division followed by a month where there
20 was no such allocation?

21 A. I think it's because the way we exchange
22 corporate allocations periodically.

23 Q. Okay. Well, right now we're just talking
24 about this change in corporate allocation. So you
25 had to know and do something to not include that

1 part that was going to the servicing division from
2 one month to the next when it changed; correct?

3 A. It wasn't that we included it; we changed
4 the methodology.

5 Q. You changed the methodology to eliminate
6 anything being allocated to the servicing
7 department; correct?

8 A. Not necessarily.

9 Q. We've been talking for the past 30 minutes
10 about, as I understood it, a change where the
11 servicing department was absorbing some of those
12 costs and then ceased absorbing any of those costs;
13 right?

14 MR. PERLOWSKI: Object to the form.

15 You can answer.

16 A. Can you say it again, then?

17 BY MR. HARGROVE:

18 Q. Sure. We even talked about -- you said it
19 was minimal, that there was an amount that was
20 allocated to the servicing division, and that
21 doesn't happen anymore; right?

22 A. In theory, no, but in practice, yes.

23 Q. In theory, no, the servicing division is
24 not getting -- all right. Let's walk back. And I'm
25 afraid we're going to be here a while because I'm

1 not following you.

2 MR. PERLOWSKI: Before you do this again,
3 can we take a two-minute break?

4 MR. HARGROVE: Sure.

5 (Recess 3:10 to 3:20 p.m.)

6 BY MR. HARGROVE:

7 Q. Mr. Muth, who puts the corporate expenses
8 into the AMB system?

9 A. Accounting.

10 Q. Accounting does? Okay. Are you involved
11 at all in that?

12 A. No.

13 Q. All right. So I want to go back where we
14 were. I understood you to testify that the call
15 center -- or that the servicing division had some
16 corporate expenses allocated to it when you
17 initially got to NAF, and that that changed at some
18 point, and then corporate expenses were no longer
19 allocated partially to the servicing division; is
20 that correct?

21 A. Not really.

22 Q. All right. So are you changing your
23 testimony from what you said earlier in the
24 deposition when we spent 45 minutes talking about
25 that change?

1 A. No.

2 Q. Okay. Well, then, tell me -- reconcile the
3 answer you just gave me with the past 45 minutes,
4 please.

5 A. So for the corporate allocations for retail
6 and the call center, we reduced the corporate
7 allocations by the percentage that went to
8 servicing. We didn't actually go and add that to
9 servicing P&L. I don't do any servicing P&Ls.

10 Q. So the corporate allocation for retail and
11 the call center used to be reduced by the percentage
12 attributable to the servicing division, and now it's
13 still reduced by that but you don't know where that
14 is allocated; is that accurate?

15 MR. PERLOWSKI: Object to the form.

16 You can answer.

17 A. Can you say that again?

18 BY MR. HARGROVE:

19 Q. All right. Let me give it as an example
20 because these work well for me.

21 There's a hundred dollars of corporate
22 expense. Used to be 5 percent -- and I'm using
23 rough numbers here -- 5 percent of that was taken
24 off and allocated to the servicing department. So
25 \$95 is going to get split between the retail

1 division and the call center and calculated the way
2 we talked about; right?

3 A. Yes.

4 Q. Okay. Then you testified that there was no
5 longer anything allocated on the corporate
6 expenditures to the servicing division; correct?

7 A. Not in the same manner that we were doing
8 it.

9 Q. Okay. So now what you're telling me is the
10 amount that used to be attributed to the servicing
11 division is not attributed to it, but it's not
12 attributed to the retail and call center; is that
13 correct?

14 A. Correct.

15 Q. All right. Where is that allocated, then?

16 A. It's not allocated anywhere.

17 Q. It's not allocated anywhere? So how does
18 the company prepare a global financial statement or
19 its tax return if it's got an expense that isn't
20 allocated anywhere?

21 A. It's an expense in the general ledger,
22 which is what's audited.

23 Q. So it's allocated to the company in
24 general, but there are no -- there's no division to
25 which it is attributed?

1 A. It's incurred by the company.

2 Q. Okay. It's incurred by the company, but in
3 the -- in the monthly reports, that is subtracted
4 off the top of the amount the corporate allocation
5 is derived from?

6 A. (The witness nods.)

7 MR. HARGROVE: Object to form.

8 BY MR. HARGROVE:

9 Q. I didn't hear you.

10 A. Correct.

11 Q. All right. So your role is just to prepare
12 the statements for the retail and call center
13 division; correct?

14 A. Correct.

15 Q. So what were you told about this change at
16 whatever point it took place?

17 A. The change when we went from that was to go
18 to, I believe, an all basis point methodology.

19 Q. All right. So right now I'm just talking
20 about the shift where -- the change where corporate
21 allocation numbers aren't attributed to the call
22 center anymore. Are you saying that's the same time
23 that a basis point change --

24 A. I'm sorry, say that again.

25 Q. All right. We were talking about changes

1 in the way the corporate allocation was applied.
2 The first one you told me about was that at some
3 point any of it ceased being attributed to the call
4 center -- excuse me -- to the servicing division;
5 correct?

6 A. Correct.

7 Q. Couldn't hear you.

8 A. Correct.

9 Q. All right. I know it may not be
10 comfortable. If you lean forward or pull up closer,
11 I think it might work better because every time --

12 A. Yeah, it's right here.

13 Q. Yeah. Well, for whatever reason, that 6
14 inches of space seems to make a difference.

15 MR. PERLOWSKI: It definitely does. I'm
16 noticing the same thing.

17 BY MR. HARGROVE:

18 Q. So there was a change that I understood was
19 the first change in time to where no longer was
20 anything going to be allocated to the servicing
21 division. And you've testified that that amount,
22 though, did not get shifted over and allocated to
23 retail and call center; correct?

24 A. Right. We reduced the allocation to the
25 call center and retail based off the amount that

1 would have gone to servicing.

2 Q. All right. And how was that change
3 communicated to you?

4 A. To move away from that process?

5 Q. Correct.

6 A. That's where we switched to a basis point
7 methodology.

8 Q. All right. Do you know when the basis
9 point methodology switch came?

10 A. Not exactly, no.

11 Q. All right. Was it a recent change?

12 A. Years ago.

13 Q. Okay. So at the point at which there was a
14 change to a basis point methodology, it was
15 communicated to you that there would no longer be an
16 allocation of any of the corporate expenses to the
17 servicing division; correct?

18 A. No.

19 Q. No. All right. Tell me what was wrong
20 about that statement. Correct me.

21 A. The methodology change was to use basis
22 points, and we used historical basis points. So
23 previously what was haircutted for servicing would
24 keep going forward.

25 Q. Walk me through -- start me with the basis.

1 Explain to me what the basis point methodology is so
2 that I can understand how the change factored in
3 where there would be no more cost attributed to the
4 servicing department.

5 A. Well, the basis point change was to bill
6 off of the bips, which is a percentage of the loan
7 volume that was funded for that month.

8 Q. All right. And that was to determine the
9 amount of corporate allocation attributable to --

10 A. Correct.

11 Q. All right. So we're going off bips instead
12 of going off of loan units now; right?

13 A. Basis points is off of loan volume.

14 Q. Okay. And before, you referred to it as
15 funded units. What's the difference?

16 A. A unit is count; volume is dollar.

17 Q. All right. So that change in methodology
18 is made on how we're going to allocate the corporate
19 expenditure. I understand that part. You can't
20 tell me when that change took place; correct?

21 A. No.

22 Q. All right. But at the same time that
23 change took place is when this change took place
24 that shifted away from anything being allocated
25 towards the servicing division; correct?

1 MR. PERLOWSKI: Object to the form.

2 BY MR. HARGROVE:

3 Q. You can answer.

4 A. Not necessarily.

5 Q. All right. Why not necessarily?

6 A. When we switched to basis points, we looked
7 at historical basis points that were being allocated
8 out. So going with the same historical, the assumed
9 costs for servicing allocation was still there.

10 Q. So the basis points -- all right. I want
11 to simplify this as much as I can. Basis point
12 calculation happens. Were basis points attributed
13 to the servicing department?

14 A. What do you mean?

15 Q. All right. I'm not an accountant. You
16 told me that the servicing department used to pay
17 some part of the corporate expenses, and that went
18 away at some point. And then you said, well, that
19 was still being deducted from what retail was going
20 to pay, even though it wasn't being attributed to
21 servicing. That's -- is that accurate?

22 A. No.

23 Q. All right. Correct me. Where am I wrong?

24 A. We reduced the allocations for retail and
25 the call center for servicing. I don't do servicing

1 P&Ls, so I didn't put servicing allocations -- or
2 corporate allocations for servicing on the servicing
3 P&L.

4 Q. Okay. So recognizing you didn't do the
5 servicing P&L, I'm with you there. You're doing the
6 retail and the call center P&L. Part of the cost is
7 reduced by something you don't put on your balance
8 sheet, whatever percentage was allocated to
9 servicing; correct?

10 A. I don't understand your question.

11 Q. All right. Well, make me understand. I
12 want you to walk me through the process that was
13 used to calculate when you first got there. I want
14 you to walk me through the process that was used to
15 calculate corporate allocation to the retail
16 department.

17 MR. PERLOWSKI: Object to the form. Asked
18 and answered.

19 You can answer again, Mr. Muth.

20 A. What was that?

21 BY MR. HARGROVE:

22 Q. You can answer. Go ahead. Walk me through
23 the process.

24 A. So we would look at the corporate
25 allocations from AMB. We would split the costs,

1 whether it was between OLA, ILA, or servicing. We
2 would exclude servicing from the OLA and -- sorry,
3 call center and retail divisions, then we would
4 allocate them on a funded-unit basis.

5 Q. Okay. Then there was a change. Tell me
6 what the new process was when there was a change.

7 A. The switch to going off of basis points.

8 Q. Okay. So if you were writing instructions
9 to your successor, what would you tell the successor
10 the change was that they needed to do?

11 A. So we're going to switch and go off of
12 basis points off of funded volume.

13 Q. Okay. As opposed to what?

14 A. As opposed to pulling the AMB and
15 allocating out individually. So call center and
16 retail.

17 Q. All right. So I understand you're changing
18 from funded units to basis points. Walk me through
19 the rest of the process other than that, of how you
20 figured out the corporate allocation.

21 A. So each month when we put together the P&L,
22 we would allocate the number of basis points off of
23 the funded volume.

24 Q. All right. And did -- so at that point,
25 none of it -- at that point, was there or was there

1 not a deduction for what was attributable to the
2 servicing department?

3 A. There would have been because we used
4 historicals.

5 Q. You used historical basis points?

6 A. Correct.

7 Q. All right. How do basis points factor into
8 the allocation towards the servicing department?

9 A. I don't know what you mean by that.

10 Q. All right. Pretend I am not an accountant
11 and have no accounting knowledge. All right? I
12 don't want you to tell me about what changed; I want
13 you to tell me after this change was made, start
14 from scratch. Tell me exactly the process that was
15 followed to figure out how much corporate allocation
16 would get applied to the retail division after the
17 change. Assume this is the way that it started;
18 okay? And walk me through from step 1 to the end
19 how it happens.

20 A. We looked up the historical corporate
21 allocations in the form of basis points. We then
22 took that historical basis points and applied it for
23 the funded volume.

24 Q. So under the historical allocation, there
25 were basis points allocated to the servicing

1 division?

2 A. Basis points is just a corporate allocation
3 dollar divided by the funded volume.

4 Q. All right. So explain to me the
5 interaction between the basis points and what would
6 have been allocated to the servicing division.

7 A. The corporate allocations, when we were
8 removing the costs that would have been allocated to
9 servicing were recorded, and then we used that
10 dollar amount to determine what the basis points
11 were.

12 Q. Right. So off the top when this change
13 happened, you looked at what historically had been
14 allocated to the servicing department and just
15 automatically deducted that?

16 A. No. We looked at what the divisions were
17 being allocated.

18 Q. All right.

19 A. That's after servicing was removed.

20 Q. So there was some portion of corporate --
21 as simply as possible, explain to me how it was
22 determined what the reduction to what was attributed
23 to retail and call center was after this change for
24 what used to be attributed to the servicing
25 department.

1 A. I don't understand what you're asking me
2 now.

3 Q. We're going to be here a while. You would
4 agree with me that there were part of the corporate
5 allocations attributed to the servicing department
6 and actually placed on its balance sheet at some
7 point; correct?

8 A. No.

9 Q. Would you agree with me that there was
10 money -- I just asked you to walk me through the
11 process, and you said there was a deduction -- this
12 is before the change -- there was a deduction to the
13 corporate allocations for the amount of time, based
14 on your conversations with them, that was spent on
15 servicing; right?

16 A. Correct.

17 Q. All right. Did that keep happening, or did
18 it stop?

19 A. We changed methodology.

20 Q. All right.

21 A. It's not that it didn't stop; we changed
22 methodology.

23 Q. Okay. How did the methodology change --
24 well, before I ask you how it changed, what effect
25 did that change in methodology have on the part of

1 the allocation that used to go to servicing?

2 A. There was no change.

3 Q. Okay. So that was still going to servicing
4 even when you changed methodology?

5 A. Nothing went to servicing. There was a
6 reduction in corporate allocations for retail and
7 the call center for servicing. That's what the
8 process was.

9 Q. All right. So the same reduction that they
10 were getting when some of it was being attributed to
11 servicing was still being given even when it wasn't
12 being --

13 A. Correct.

14 Q. Okay. And how was that amount calculated?

15 A. We were using the historical averages.

16 Q. All right. Historical averages of what had
17 been attributed to servicing before the change?

18 A. Correct.

19 Q. And your testimony is that that change
20 didn't cause any increase in the amount of corporate
21 allocations to the retail division; correct?

22 A. Not that I'm aware of.

23 Q. Well, are there others that I need to speak
24 with? You said not that you're aware of. Are there
25 others who might have knowledge of increases beyond

1 your knowledge?

2 MR. PERLOWSKI: Object to the form.

3 Foundation.

4 BY MR. HARGROVE:

5 Q. Do I need to talk to somebody else to find
6 out whether there were changes?

7 A. What changes are you referring to?

8 MR. PERLOWSKI: Object to the form.

9 Foundation, speculation.

10 You can answer.

11 BY MR. HARGROVE:

12 Q. My understanding is you're the guy we're
13 going to get to, everybody says you're the guy for
14 the P&Ls and the corporate allocations. That's --
15 I've been directed to you. And you said not to your
16 knowledge as to whether there was any increase in
17 corporate allocation burden to the retail division.

18 And what I'm asking you is, is there
19 someone the buck stops with beyond you I need to
20 speak with to find out if there was an increase in
21 the burden of the corporate allocation to the retail
22 division?

23 MR. PERLOWSKI: First of all, objection.

24 Foundation. Form. You were told that Mr. Muth was
25 the appropriate person to talk about some of the

1 supplemental documents that were produced and
2 nothing else. So let's actually -- I mean, he can
3 answer the questions you asked, but the entire
4 foundation was just wrong.

5 BY MR. HARGROVE:

6 Q. So you're the man. Any of these documents
7 that were produced, you're the man; correct?

8 MR. PERLOWSKI: Not what I said. That's
9 not what I said. You want to show him the documents
10 that were produced and ask him about them --

11 MR. HARGROVE: We're going to show him
12 documents in a minute. I'm asking him questions so
13 I can get to the documents, which is going to be a
14 while.

15 BY MR. HARGROVE:

16 Q. But is there someone other than you who you
17 believe has superior knowledge of whether the change
18 that you told me about caused an increase in
19 corporate allocation to the retail division?

20 MR. PERLOWSKI: Objection. Form,
21 foundation, speculation.

22 You can answer if you can, Mr. Muth.

23 BY MR. HARGROVE:

24 Q. I can't hear you.

25 A. I'm not aware of anything.

1 Q. I still can't hear you.

2 A. I'm not aware of anything.

3 Q. All right. Have there been other -- you
4 told me about that change. Have there been other
5 changes in the way that corporate allocations have
6 been computed?

7 A. Yes.

8 Q. All right. Tell me about the next change.

9 A. Dollar per unit.

10 Q. All right. And when did that change to
11 dollar per unit take place?

12 A. Beginning of 2021.

13 Q. Okay. So some -- so other than this change
14 at the beginning of 2021, the only other change to
15 corporate allocations you've already told me about;
16 correct?

17 A. Correct.

18 Q. I couldn't hear you.

19 A. Correct.

20 Q. All right.

21 MR. PERLOWSKI: I couldn't hear that
22 either. Were you able to hear that last one,
23 Travis?

24 MR. HARGROVE: I heard it. He said
25 correct, but I don't mind him saying it again.

1 MR. PERLOWSKI: That's fine. I'll take
2 your word for it. I just didn't hear it.

3 BY MR. HARGROVE:

4 Q. So what changed in early 2021? How did
5 this per-unit change affect corporate allocations to
6 the retail division?

7 A. We were allocating on a dollar per funded
8 unit.

9 Q. Dollar per funded unit. Explain that
10 formula of dollar per funded unit, what the inputs
11 are.

12 A. So we estimated what our corporate
13 allocations were going to be for the full year, and
14 then what our funded volume -- or funded units was
15 going to be to determine a cost per unit.

16 Q. Okay. So it was a prospective projection,
17 and that was used to calculate who would -- which
18 region would bear how much of the corporate
19 allocation; is that accurate? I didn't hear you.

20 A. (Inaudible.)

21 Q. I still didn't hear you.

22 A. Correct.

23 Q. All right. We got a little bit out of
24 order. I'm going to ask you a question now that
25 we're going to do a little bit more background, and

1 then we'll come back to a lot of these issues as we
2 go through these documents.

3 And I think I know the answer to this at
4 this point, but I intended to ask it at the
5 beginning. You're not under the influence of any
6 prescription medications or nonprescription of any
7 sort that would affect your ability to fully and
8 truthfully testify today; correct?

9 A. No.

10 Q. No, you're not or no -- I know you're
11 saying no, you're not, but that --

12 A. No, I'm not.

13 Q. Okay. All right. And you've never been
14 diagnosed with any sort of a memory problem;
15 correct?

16 A. No, I haven't.

17 Q. All right. Have you ever been involved in
18 a lawsuit before where you either sued someone or
19 have been sued?

20 A. No.

21 Q. What did you do to prepare for this
22 deposition today?

23 A. Nothing.

24 Q. So you didn't look at any documents?

25 A. I reviewed some documents.

1 Q. Okay. So -- so you said "nothing." So
2 let's go back. What did you do to prepare for the
3 deposition today?

4 A. I've looked over some documents.

5 Q. All right. What documents did you look at?

6 A. A pie chart.

7 Q. Okay. Did you look at any documents other
8 than a pie chart?

9 A. Yeah, there were a couple other.

10 Q. Tell me what you recall about those.

11 A. I don't really recall. They were part of
12 meetings from a while ago.

13 Q. All right. Were those meetings with your
14 counsel or somebody else?

15 A. With counselor.

16 Q. Okay. Now, I don't want to know what you
17 discussed, but did you speak -- did you meet with
18 your counsel prior to this deposition?

19 A. Yes.

20 Q. Okay. For how long did y'all meet?

21 A. Don't recall.

22 Q. All right. Was it one meeting or multiple
23 meetings?

24 A. One.

25 Q. All right. When did the meeting take

1 place?

2 A. Yesterday.

3 Q. All right. And how many documents did you
4 review in preparation for your deposition?

5 A. There were a couple.

6 Q. All right. A couple meaning two or a
7 couple meaning not a whole lot but a few?

8 A. A few.

9 Q. Okay. How long did you spend reviewing the
10 documents?

11 A. Maybe 20 minutes, 25 minutes.

12 Q. When you reviewed the documents that you
13 reviewed in preparation for the deposition, did
14 you -- well, let me go back.

15 Did you prepare any of the documents that
16 you reviewed in preparation for the deposition?

17 A. Yes.

18 Q. All right. Were there any documents that
19 you reviewed in preparation for the deposition that
20 you didn't prepare?

21 A. Possibly.

22 Q. All right. The ones you did prepare, do
23 you remember preparing those documents and the
24 circumstances attendant thereto?

25 A. They were a long time ago. Not

1 necessarily.

2 Q. All right. Were you able to refresh your
3 recollection at all when reviewing the documents?

4 A. A little bit.

5 Q. All right. Aside from a meeting with your
6 counsel and reviewing some documents for about 20
7 minutes, did you do anything else to prepare for
8 your deposition?

9 A. No.

10 Q. All right. Have you talked with anyone
11 else at NAF about your deposition?

12 A. No.

13 Q. Have you had any discussions with
14 Mr. Obradovich about his deposition?

15 A. No.

16 Q. Does Mr. Obradovich know you were being
17 deposed today?

18 A. I believe so.

19 Q. Okay. Did you have any conversations with
20 him about what you might be asked in the deposition?

21 A. Yes.

22 Q. Okay. Tell me about those discussions.

23 A. He mentioned background.

24 Q. Okay. So let's go back. Where were you --
25 so you had one discussion with Mr. Obradovich or

1 multiple discussions with Mr. Obradovich about this
2 deposition?

3 A. One.

4 Q. All right. When did that discussion take
5 place?

6 A. Yesterday.

7 Q. All right. And was that in person or a
8 phone call discussion?

9 A. It was a teams meeting.

10 Q. A teams meeting. All right. Was your
11 counsel present on that teams meeting?

12 A. Yes.

13 Q. All right. Well, then, I'm not going to
14 ask you more about that if your counsel was present.

15 Outside the presence of your counsel, did
16 you have any discussions with Mr. Obradovich about
17 the deposition?

18 A. No.

19 Q. Have you had any discussion with anyone
20 else at NAF, outside of the presence of your
21 counsel, about the deposition?

22 A. No.

23 Q. Have you had any discussions with anyone at
24 NAF, outside of the presence of your counsel, about
25 their depositions?

1 A. No.

2 Q. Do you have any knowledge of what the
3 claims in the lawsuit that you're here being deposed
4 in are?

5 A. No.

6 MR. PERLOWSKI: I'm going to -- don't
7 reveal any privileged communications in that regard,
8 but you can answer.

9 BY MR. HARGROVE:

10 Q. You can go ahead and answer.

11 A. No.

12 Q. So you don't have any idea what this
13 lawsuit is about, then; correct?

14 A. Correct.

15 Q. Not had any discussions outside the
16 presence of your counsel with anyone at NAF about
17 the deposition?

18 A. No.

19 Q. How did you learn that you were going to be
20 deposed?

21 A. E-mail.

22 Q. Okay. And did the e-mail come from your
23 counsel?

24 A. Yes.

25 Q. All right. Have you had any discussions

1 with Kelly Allison about this case?

2 A. No.

3 Q. Have you had any discussion with
4 Kelly Allison about this deposition?

5 A. No.

6 Q. Have you done any independent research of
7 any sort to try to learn about what the allegations
8 of the lawsuit are?

9 A. No.

10 Q. Do you know my client Ms. Spearman?

11 A. Yes.

12 Q. Okay. And how do you know her?

13 A. Worked at NAF.

14 Q. All right. When was the last time you
15 interacted with her?

16 A. I don't remember.

17 Q. Okay. While she was still employed with
18 NAF, I would assume?

19 A. Yes.

20 Q. So we got started on your employment at NAF
21 and your initial position, which was -- that was --
22 what was it again? It's been a little while. Vice
23 president of?

24 A. I started as the AVP of corporate
25 analytics.

1 Q. Okay. All right. How did you first come
2 to be employed at NAF?

3 A. By applying for the job.

4 Q. All right. And how did you know to apply
5 for the job?

6 A. I was recruited.

7 Q. All right. Who recruited you?

8 A. A recruiter.

9 Q. All right. What was the recruiter's name?

10 A. I don't remember.

11 Q. All right. And when the recruiter reached
12 out, you obviously ended up employed at NAF. Walk
13 me through the process by which you became employed
14 as the AVP of corporate analytics.

15 A. I interviewed with Jason Obradovich.

16 Q. Okay. That's it? You interviewed with him
17 and he said you're hired?

18 A. It was a couple days later I got a phone
19 call that I got the position.

20 Q. Okay. Did you meet with anyone other than
21 Mr. Obradovich?

22 A. Yes.

23 Q. Okay. Who else did you meet with?

24 A. Kristin Ankeny.

25 Q. Kristin Ankeny?

1 A. Correct.

2 Q. All right. And she is in the same
3 department you're in; correct?

4 A. No.

5 Q. No? Okay. What department is she?

6 A. I don't know off the top of my head.

7 Q. What department are you in?

8 A. Finance.

9 Q. All right. And you became the AVP of
10 corporate analytics, you said, about November of
11 2017?

12 A. Correct.

13 Q. All right. Walk me through -- well, let me
14 go back.

15 You didn't know Mr. Obradovich before you
16 became employed at NAF; correct?

17 A. Correct.

18 Q. All right. Did you interact with
19 Mr. Obradovich regularly in your job at NAF?

20 A. Only weekly.

21 Q. And do you collaborate on things together
22 or does he supervise you or what is y'all's
23 relationship?

24 A. Every once in a while.

25 Q. Every once in a while you collaborate?

1 A. Correct.

2 Q. All right. Is he on the totem pole above
3 where you are with NAF?

4 A. Yes.

5 Q. All right. Walk me through your
6 advancement at NAF up to your present position.

7 A. I was promoted to vice president of finance
8 in November 2019.

9 Q. Okay. And how did your role change between
10 being AVP of corporate analytics to VP of finance?

11 A. It was a pretty similar role.

12 Q. Did you obtain additional responsibilities?

13 A. No.

14 Q. All right. Were you supervising more
15 people than you were before?

16 A. No.

17 Q. So it was just a change in name only and, I
18 assume, a pay increase?

19 A. Correct.

20 Q. All right. And is that your current
21 position, VP of finance?

22 A. Yes.

23 Q. All right. If you were to write a job
24 description for your job, tell me what that job
25 description would be.

1 A. Prepare various P&Ls for the company.

2 Q. To prepare various P&Ls for the company?

3 A. Correct.

4 Q. All right. What are the various P&Ls that
5 you prepare?

6 A. Did P&Ls for the retail and the call
7 center.

8 Q. Okay. And you have walked me through
9 already the method and manner by which you prepare
10 those P&Ls for the retail and call center; correct?

11 A. Correct.

12 Q. And those are done on a monthly basis;
13 correct?

14 A. Yes.

15 Q. And then at the end of the year, is there
16 an aggregate for the year or are there also -- well,
17 let me just ask it this way: Are there statements
18 prepared, P&Ls for the retail and call center other
19 than just the monthly P&Ls you've told me about?

20 A. No. They're prepared monthly.

21 Q. All right. So you are involved in
22 aggregating months together to form quarters or
23 quarters to form years? It's all simply monthly
24 data; correct?

25 A. We prepare them monthly; however, you can

1 combine them to make quarters or year.

2 Q. Okay. And is that part of your role, or do
3 you provide monthly and then someone else, to the
4 extent they want to aggregate, then aggregates them?

5 A. No. I would do that as well.

6 Q. Okay. And you do that using the
7 information that's input by others into AMB and that
8 you obtain from the branches, that goes on the Excel
9 spreadsheet, that gets input to Kevlar, and that
10 prints the reports; correct?

11 A. Correct.

12 Q. Okay. And in addition to Kevlar, there are
13 also certain Excel spreadsheets that can be put
14 together to show various aspects of the company's
15 finances; correct?

16 A. Correct.

17 Q. And in fact, you were involved in preparing
18 many such documents related to Ms. Spearman and
19 Ms. Allison while they were employed at NAF;
20 correct?

21 MR. PERLOWSKI: Object to the form.
22 Foundation.

23 You can answer.

24 A. Correct.

25 BY MR. HARGROVE:

1 Q. All right. The Kevlar system was
2 already -- the Kevlar system was already in place at
3 the point in which you became employed at NAF;
4 correct?

5 A. No.

6 Q. No? Okay. How far into your employment
7 was the Kevlar system implemented?

8 A. It was early on.

9 Q. All right. Before the Kevlar system was
10 implemented, tell me how you went about preparing
11 the P&Ls that you prepared.

12 A. Excel.

13 Q. In Excel? Okay. So same exact process, it
14 would just be an Excel document as opposed to
15 uploading it into Kevlar?

16 A. Correct.

17 Q. Okay. Did Kevlar change anything about the
18 way revenue costs or profits were recorded by you in
19 the Excel spreadsheets?

20 A. No.

21 Q. Did you think that Kevlar was beneficial to
22 the company?

23 A. Yes.

24 Q. All right. Were you involved in building
25 the Kevlar program?

1 A. No.

2 Q. Who was involved in building the Kevlar
3 program?

4 A. The team people.

5 Q. Were you consulted about the Kevlar system?

6 A. I created templates of what the P&L design
7 would look like.

8 Q. Okay. Who asked you to do that?

9 A. I don't recall who asked.

10 Q. Was Mr. Obradovich involved in preparing
11 the Kevlar system?

12 A. Yes, he was.

13 Q. Does the Kevlar system account for earnings
14 and expenses?

15 A. Yes.

16 Q. Did the method that you utilized before
17 Kevlar was in play account for earnings and
18 expenses?

19 A. Yes.

20 Q. All right. On a Kevlar report, a Kevlar
21 P&L always has bottom-line profit on it; correct?

22 A. Correct.

23 Q. It didn't pick up. Could you go ahead and
24 repeat?

25 A. Yes.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. Okay. And why don't you believe so?

8 A. 2018 was a very bad year for the industry.

9 Q. Okay. Would it surprise you if Ms. Preslo
10 testified that the 2018 P&L showed a profit on page
11 86 of her deposition?

12 MR. PERLOWSKI: Object to the form.

13 You can answer.

14 A. Yes.

15 BY MR. HARGROVE:

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. Were you involved with -- in meetings about
21 or approving the P&Ls on a monthly basis with
22 Mr. Obradovich?

23 A. Yes.

24 Q. All right. Who else was involved in those
25 meetings, if anyone?

1 A. Jon Reed.

2 Q. Okay. Anyone else?

3 A. Jan Preslo.

4 Q. Okay. Anyone else?

5 A. Christy.

6 Q. Christy Bunce? All right. So Mr. Reed,
7 Ms. Preslo, Ms. Bunce, Mr. Obradovich, you. Anyone
8 else?

9 A. No.

10 Q. All right. Did these meetings occur on a
11 monthly basis when the P&Ls were prepared?

12 A. Yes.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. I believe so.

22 Q. All right. What were the contents of those
23 discussions?

24 A. I don't remember in detail.

25 Q. Well, tell me what you do remember even not

1 in detail.

2 A. I don't remember details of a meeting three
3 or four years ago.

4 Q. Do you remember anything about the meeting?

5 A. Not specifically, no.

6 Q. How about generally?

7 A. Only we would have the meetings. I
8 remember that.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q. Okay. Do you remember who was alarmed?

15 A. Not specifically.

16 Q. Okay. But you do remember that somebody
17 was alarmed about it; correct?

18 A. Like I said, I don't remember the meeting
19 specifically. I imagine there would be some people
20 that would be alarmed by it.

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 A. Not that I'm aware of.

1 MR. PERLOWSKI: Object to the form.

2 Speculation.

3 BY MR. HARGROVE:

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. All right. And in response to that alarm,
8 did you take any action?

9 A. Not necessarily, no.

10 Q. All right. Were there any changes to the
11 way that corporate allocations were charged for the
12 year 2018 against the retail division that caused
13 it, on your P&Ls, to be less profitable?

14 A. No.

15 Q. So there was nothing done that changed the
16 corporate allocation to increase them as it pertains
17 to the retail division for 2018?

18 MR. PERLOWSKI: Objection. Asked and
19 answered.

20 You can answer again.

21 A. What was that?

22 BY MR. HARGROVE:

23 Q. You already answered. He put an objection
24 in, but you already answered. I'm not saying you
25 ran over the objection. I'm just saying you already

1 answered.

2 MR. PERLOWSKI: I didn't hear.

3 MR. HARGROVE: You want to read the
4 question back so it's less confusing?

5 MR. PERLOWSKI: Let's do that.

6 (The reporter read the requested material.)

7 MR. PERLOWSKI: Same objection.

8 You can answer.

9 A. No.

10 BY MR. HARGROVE:

11 Q. In the prior years, had the retail -- so
12 you only got there in 2000 -- end of 2017. Did 2017
13 come out to be a profitable year?

14 A. I don't recall.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. Is that because you saw the P&Ls all along?

19 A. Yes.

20 Q. Okay. Do you know, with regard to the P&Ls
21 off Kevlar, did you distribute those to the
22 Arvielos?

23 A. Not directly.

24 Q. Okay. But you prepared them, y'all met
25 about them, went through them, then you know they

1 were transmitted to the Arvielos; correct?

2 A. I don't know that for sure.

3 Q. Okay. So you don't have any knowledge as
4 to whether the Arvielos ever saw the P&Ls or not?

5 A. Not that ones I --

6 MR. PERLOWSKI: Object. Asked and
7 answered. Speculation.

8 You can answer.

9 BY MR. HARGROVE:

10 Q. I didn't hear your answer.

11 A. I don't know if the Arvielos saw the P&Ls I
12 produced.

13 Q. Okay. Do you know whether they saw any
14 P&Ls for the retail division?

15 A. I wouldn't know what they saw or didn't
16 see.

17 Q. All right. Let's take a couple-minute
18 break before I get in here, about to change gears.

19 (Recess 4:11 to 4:23 p.m.)

20 BY MR. HARGROVE:

21 Q. Did you attend a 2019 leadership meeting
22 with the regional managers and the executives of
23 NAF?

24 A. No.

25 Q. Okay. Are you aware of any such meeting

1 taking place?

2 A. I've heard of the meeting.

3 Q. All right. Tell me what you've heard about
4 the meeting.

5 A. Just that there was a meeting.

6 Q. All right. And so you've not heard
7 anything other than there was a leadership meeting
8 in February 2019?

9 A. Correct.

10 Q. All right. So you don't know whether at
11 that meeting there was a discussion about 2018 not
12 being a good financial year for the retail division?

13 A. I wasn't in the meeting. I don't know what
14 was discussed.

15 Q. Had you had discussions with others about
16 the meeting?

17 A. No.

18 Q. Okay. How did you know the meeting even
19 took place?

20 A. Preparing documents.

21 Q. Because what now?

22 A. Preparing documents.

23 Q. All right. What documents did you prepare
24 for the February 2019 leadership meeting?

25 A. I don't recall specifically.

1 Q. All right. Who asked you to prepare
2 documents for the 2019 leadership meeting?

3 A. I don't recall specifically.

4 Q. All right. Well, do you recall generally?

5 A. I'm sure it came from several different
6 individuals.

7 Q. Okay. Who were those individuals who
8 you're sure it could have been?

9 A. I'm not sure.

10 Q. All right. Well, name the ones that -- you
11 said several individuals, so tell me the identity of
12 those people.

13 A. They could have been Jon Reed.

14 Q. Okay.

15 A. Could have been Christy Bunce.

16 Q. Okay.

17 A. And Jason Obradovich.

18 Q. All right. When you were asked to prepare
19 documents, were you given a reason why you were
20 preparing the documents?

21 A. For 2018 review.

22 Q. For a 2018 review?

23 A. Correct.

24 Q. All right. A review of what?

25 A. Of the P&Ls for 2018.

1 Q. Okay. Was there anything different about
2 this leadership meeting than other meetings that
3 took place while you were at NAF?

4 MR. PERLOWSKI: Object to the form.
5 Speculation.

6 You can answer if you can.

7 A. I haven't attended any other meeting, so I
8 wouldn't know.

9 BY MR. HARGROVE:

10 Q. Did you say you hadn't attended any other
11 or any of the meetings?

12 A. You asked how they compared to other
13 meetings prior. I never attended any other
14 meetings.

15 Q. Okay. And were you asked to prepare
16 documents for other meetings during the time you've
17 been at NAF?

18 A. Yes.

19 Q. Were you asked to prepare similar documents
20 that you were asked to prepare for their February
21 2019 leadership meeting?

22 A. Most likely, yes.

23 Q. Did you have any discussions with anyone
24 prior to the meeting about there being a
25 misallocation of funds that caused the -- what was

1 thought to be a profitable year to be a not
2 profitable year?

3 A. I don't know what you mean.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 MR. PERLOWSKI: Object to the form.
14 Foundation.

15 You can answer.

16 A. Yes.

17 BY MR. HARGROVE:

18 Q. Okay. Tell me about those conversations.

19 A. It was regarding the corporate allocations.

20 Q. Okay. Who did you have those -- that
21 conversation or those conversations with?

22 A. Various people at NAF.

23 Q. Okay. Tell me everything you recall
24 about -- well, first off, let me go back.

25 Who were the various people at NAF you had

1 these conversations with?

2 A. I'm sure they were with Jon Reed, Christy
3 Bunce.

4 Q. Okay.

5 A. Jason Obradovich.

6 Q. All right. Was it conversations with
7 everyone, or were these separate conversations?

8 A. I don't recall.

9 Q. All right. Tell me what was discussed in
10 these conversations.

11 A. It was the various levels of corporate
12 allocations.

13 Q. All right. What was discussed about the
14 various levels of corporate allocations?

15 A. I guess it was the difference between them.

16 Q. All right. Were you asked to explain the
17 difference between them?

18 A. I don't recall specifically.

19 Q. Okay. So there was discussion about the
20 difference between them. Do you know -- why were
21 y'all discussing the difference between the
22 different corporate allocations?

23 A. Because there's the different amounts for
24 the allocation, what was applied.

25 Q. All right. And why did that matter?

1 A. Well, if you don't apply all the corporate
2 allocations, you're not seeing the full P&L.

3 Q. All right. And did you have an
4 understanding that there was someone who didn't see
5 all the corporate allocations?

6 A. Not to my understanding.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 MR. PERLOWSKI: Object to form.

12 Mischaracterizes his testimony.

13 You can answer.

14 A. Correct.

15 BY MR. HARGROVE:

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. All right. But you can't tell me who at
24 NAF that was?

25 A. I don't know who had the confusion. I know

1 there was confusion.

2 Q. The first part of your answer was cut off,
3 so if you wouldn't mind answering again.

4 A. I don't remember who had confusion
5 specifically.

6 Q. Was it Mr. Arvielo?

7 A. Not to my knowledge.

8 Q. All right. Was it Mr. Obradovich?

9 A. Not to my knowledge.

10 Q. Was it Mr. Reed?

11 A. It could have been Reed.

12 Q. Okay. Why do you say it could have been
13 Reed?

14 A. Because he was part of the corporate
15 allocation discussions.

16 Q. Okay. He was also involved in the monthly
17 meetings you guys had where the P&Ls were approved;
18 correct?

19 A. Correct.

20 Q. And those P&Ls always had the bottom-line
21 profit on them; correct?

22 A. Correct.

23 Q. Okay. Did he ever express to you a lack of
24 understanding of the bottom-line profit?

25 A. Not directly to me.

1 Q. Okay. Did he express it to someone else,
2 that you're aware of?

3 A. Not that I'm aware of.

4 Q. All right. How about Ms. Bunce? Was
5 Ms. Bunce confused about the corporate allocations?

6 A. Not that I'm aware of.

7 Q. All right. How about Ms. Preslo?

8 A. Not that I'm aware of.

9 Q. So the only one you're aware that it might
10 be is Mr. Reed?

11 A. Possibly.

12 Q. Okay. Anybody else that it might have
13 been?

14 A. Not to my knowledge.

15 Q. So as we sit here, you're not certain it
16 was Mr. Reed, but you believe Mr. Reed is the one
17 who was confused about the corporate allocations?

18 A. I believe so.

19 Q. Okay. And you had discussions with
20 Mr. Reed about the corporate allocations?

21 MR. PERLOWSKI: Object to the form. Asked
22 and answered.

23 A. We would have discussions about corporate
24 allocations, yes.

25 BY MR. HARGROVE:

1 Q. And when you had those discussions, did you
2 leave with the belief that he did not understand
3 bottom-line profit on the P&Ls you prepared?

4 A. No.

5 Q. Okay. What leads you to believe that he is
6 the only one you think might have been the one
7 confused about the corporate allocations?

8 MR. PERLOWSKI: Objection. Asked and
9 answered.

10 A. Just because I had more conversations with
11 him. I worked closer with him than anyone else
12 during that time period.

13 BY MR. HARGROVE:

14 Q. All right. Do you understand that that
15 corporate allocations issue was an issue that came
16 up after February 2019 leadership meeting?

17 MR. PERLOWSKI: Objection. Foundation.
18 Speculation.

19 You can answer.

20 A. I'm not aware of what came up during the
21 meeting.

22 BY MR. HARGROVE:

23 Q. You didn't have discussions after the
24 meeting with anyone about what happened at the
25 meeting?

1 A. No, not that I recall.

2 Q. You weren't asked to -- you weren't asked
3 to prepare any documents about -- related to
4 corporate allocation after the meeting?

5 A. Not that I recall specifically.

6 Q. So prior to today, have you ever heard
7 anyone say that at that meeting, a misallocation of
8 \$30 million was discussed?

9 A. I'm not aware of a misallocation.

10 Q. Okay. That wasn't my question. My
11 question was if you had ever heard a discussion
12 about a 30-million-dollar misallocation?

13 A. I'm not aware of the misallocation.

14 Q. I'm sorry, you said what now? I couldn't
15 hear you.

16 A. I'm not aware of what you're referring to
17 as a misallocation.

18 Q. Are you aware of some other accounting
19 error or mistake that was discussed at the meeting?

20 A. Error or mistake? No.

21 Q. Okay. Something, a misunderstanding?

22 A. I'm not familiar with what occurred at the
23 meeting.

24 Q. Okay. My question was, have you heard from
25 anyone else at NAF about a misunderstanding of the

1 financials being discussed at that meeting?

2 MR. PERLOWSKI: Object to the form.

3 Foundation. Speculation.

4 You can answer.

5 A. Yeah, can you ask that again? Sorry.

6 BY MR. HARGROVE:

7 Q. Sure. Let me go back. Have you discussed
8 what happened at that meeting, the February 2019
9 leadership meeting, with anyone at NAF?

10 A. No, not that I'm aware of.

11 Q. Not that you're aware of. Okay. Have you
12 heard from anybody at NAF about anything that
13 occurred at that meeting?

14 A. No.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 MR. PERLOWSKI: Objection. Speculation.

20 You can answer. Foundation.

21 A. Yes.

22 BY MR. HARGROVE:

23 Q. Okay. Who is that?

24 A. I don't know specifically.

25 Q. All right. How do you know that there's

1 someone at NAF, which I think you eliminated down to
2 it was most likely Jon Reed, who had that
3 misunderstanding of your P&Ls?

4 A. You were breaking up during that question.

5 Q. Sure. From where did you obtain that
6 understanding that someone misunderstood your P&Ls
7 who the only one you can't eliminate is Jon Reed?

8 A. Sorry, once again, you were breaking up
9 again.

10 Q. Okay. Sorry about that.

11 A. That's all right.

12 Q. Where did you obtain the understanding that
13 someone at NAF, and you eliminated everyone but Jon
14 Reed, had a misunderstanding about the P&Ls you
15 prepared and what they showed as to profitability
16 for 2018?

17 A. So I recall putting together a document
18 that showed the difference.

19 Q. Okay. That showed the difference of what?

20 A. The various allocations.

21 Q. All right. Who asked you to prepare that
22 document?

23 A. I don't recall specifically.

24 Q. All right. Is that document one of the
25 documents that you looked at before this deposition?

1 A. Yes.

2 Q. All right. Is that a document you provided
3 to counsel to be produced in this litigation?

4 A. You're breaking up again.

5 Q. All right. Is that document one of the
6 documents that you produced to your counsel in this
7 litigation?

8 A. Yes.

9 Q. All right. And were you asked to prepare
10 that document before the leadership meeting or after
11 the leadership meeting?

12 A. You cut out on the beginning of that. I
13 just heard the leadership meeting.

14 Q. Were you asked to prepare that document
15 before the leadership meeting or after the
16 leadership meeting?

17 A. Before.

18 Q. All right. But you don't remember who
19 asked you to prepare the document?

20 A. Not specifically, no.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A. No.

1 Q. All right. Why did you think you were
2 asked to prepare that document?

3 A. I don't know why.

4 Q. Okay. Have you had any discussions with
5 Rick Arvielo about the 2018 profit and loss
6 statements?

7 A. Yes.

8 Q. Okay. Tell me about your conversations
9 with Rick Arvielo about the 2018 profit and loss
10 statements.

11 A. I don't remember specifically the
12 conversation.

13 Q. All right. Tell me everything you do
14 remember about any conversation you've had with
15 Mr. Arvielo about the 2018 profit and loss
16 statements.

17 A. I just recall that it was not a good year.

18 Q. Okay. And did this conversation -- were
19 there multiple conversations with Mr. Arvielo or
20 just one conversation?

21 A. I don't recall.

22 Q. All right. Is Mr. Arvielo's office near
23 your office?

24 A. Yes.

25 Q. All right. Did you have --

1 A. In the same building.

2 Q. In the same building? Are you on the same
3 floor?

4 A. No.

5 Q. All right. The conversation, was it in his
6 office or your office?

7 A. His office.

8 Q. All right. Did he ask you to come to his
9 office?

10 A. I don't think specifically. I don't
11 remember if there was a meeting or what.

12 Q. All right. So his office isn't in such
13 proximity that you would just run into him in the
14 hall and him say step into my office; right?

15 A. Right.

16 Q. It was on an entire different floor of the
17 building; correct?

18 A. Correct.

19 Q. All right. And so you had a discussion
20 about the 2018 P&Ls with him, which you don't recall
21 the contents of any of it?

22 A. From 2018? No.

23 Q. All right. You don't know whether the
24 corporate margin and how it was allocated was
25 discussed with Mr. Arvielo?

1 A. I don't recall.

2 Q. How often have you had meetings in
3 Mr. Arvielo's office during your tenure with the
4 company?

5 A. Before he went remote, pretty much monthly.

6 Q. Okay. So what would the monthly
7 meetings -- what would be the purpose of these
8 monthly meetings?

9 A. To review the corporate P&L.

10 Q. Okay. At any meeting that you had with
11 Mr. Arvielo reviewing corporate P&Ls, was there a
12 discussion about anything other than the bottom-line
13 profit reflected on the P&L you had prepared?

14 A. Talked about volume.

15 Q. Okay. Would you go over the P&L with
16 Mr. Arvielo?

17 A. Several of us would be in the meeting
18 reviewing the P&L.

19 Q. All right. And when several of you were in
20 the meeting reviewing the P&L, did you have any
21 pause or concern as to whether he understood what
22 line on those P&Ls was the bottom-line profit
23 number?

24 A. No.

25 Q. All right. Did anyone in any of those

1 meetings ever tell Mr. Arvielo that the -- that any
2 number was profit other than the bottom-line profit
3 number at the bottom of the P&L?

4 MR. PERLOWSKI: Object to the form.

5 A. No.

6 BY MR. HARGROVE:

7 Q. Did Mr. Arvielo ever express in any of
8 those meetings out loud that he believed some line
9 on the P&L other than the final line was the actual
10 profit or loss of the retail division?

11 A. Not --

12 MR. PERLOWSKI: Object to the form.

13 BY MR. HARGROVE:

14 Q. Go ahead.

15 A. Not to my knowledge.

16 Q. For 2018, the retail division for the
17 southeast region, was there a profitable year for
18 that region?

19 A. I'm sorry, you broke up in the middle of
20 that.

21 Q. 2018, the southeast region retail, was it
22 not highly profitable in 2018?

23 A. No.

24 Q. Okay. And how is it that you recall that
25 specifically from 2018 as opposed to other things

1 about 2018?

2 MR. PERLOWSKI: Object to the form.

3 A. Say the question again.

4 BY MR. HARGROVE:

5 Q. Sure. How is it that you recall so quickly
6 from 2018 the southeast region not being profitable
7 as opposed to all the other things I've asked you
8 about that time that you said were so remote you
9 couldn't remember it?

10 A. From a document.

11 Q. And what document is that?

12 A. The document I looked at yesterday.

13 Q. And none of those documents refreshed your
14 recollection as to who at NAF didn't understand your
15 profit and loss statements and the appropriate
16 corporate allocations?

17 A. No.

18 Q. Did the P&Ls for retail before the
19 leadership meeting in 2018 for the fourth quarter
20 show a 15-million-dollar profit?

21 MR. PERLOWSKI: Object to the form.
22 Foundation.

23 A. I don't recall what it showed. It wouldn't
24 have shown a 15-million-dollar profit, though.

25 BY MR. HARGROVE:

1 Q. Never, at any point?

2 A. 2018? No.

3 Q. Okay. Were you involved at all in any
4 discussions about altering -- altering regional
5 managers', such as Ms. Spearman and Ms. Allison,
6 compensation as a result of misunderstandings of the
7 financial statements from 2018?

8 MR. PERLOWSKI: Objection. Foundation.

9 You can answer.

10 A. No.

11 BY MR. HARGROVE:

12 Q. Were you involved at all in discussions of
13 pricing exceptions and whether there should be any
14 changes to those for people such as Ms. Spearman and
15 other regional managers?

16 A. I'm sorry, you were breaking up. Can you
17 say that again?

18 Q. Sure. Were you involved at all in
19 discussions about whether there would be alterations
20 to pricing exceptions for individuals such as
21 Ms. Spearman?

22 A. No.

23 Q. Were you involved in any conversations
24 about compensation whatsoever as it pertained to
25 Ms. Spearman or her division?

1 A. No.

2 Q. Did corporate costs increase substantially
3 in 2018 for NAF?

4 A. Not that I'm aware of.

5 Q. All right. And you reviewed documents
6 ahead of this that refreshed your recollection about
7 the southeast region. Did any of your -- any of the
8 documents refresh your recollection about the level
9 of corporate expense in '18 versus '19?

10 A. I'm not familiar with corporate expense in
11 '17.

12 Q. You were there at the end of '17; correct?
13 You prepared the year-end P&L for '17; correct?

14 A. I prepared the December P&L.

15 Q. All right. I know what you said, but only
16 a little of it got on the record. Would you remind
17 repeating it?

18 A. I would have prepared the December P&L.

19 Q. And in association with preparing the
20 December P&L, would you have seen the aggregate P&L
21 for 2017?

22 A. Not that I recall.

23 Q. Were you involved in any meetings with NAF
24 executives prior to the February 2019 leadership
25 meeting in preparation for that meeting?

1 A. I'm sorry, you broke up in the beginning of
2 that.

3 Q. Okay. Were you a part of any meetings with
4 NAF leadership to prepare for the 2019 leadership
5 meeting?

6 A. Not that I recall.

7 Q. Did you have any discussions with Jon Reed
8 after the leadership meeting in February 2019 about
9 what occurred at the leadership meeting?

10 A. Not that I recall.

11 Q. Are you aware that one of the allegations
12 in this lawsuit is that a misallocation of \$30
13 million was announced at the February 2019
14 leadership meeting?

15 A. You broke up after \$30 million.

16 Q. Are you aware that one of the allegations
17 in this lawsuit is that at the leadership meeting in
18 February 2019, a 30-million-dollar misallocation of
19 funds was discussed?

20 A. I'm not aware of the lawsuit.

21 Q. Have you, before I just told you that, ever
22 heard from anyone, related to the lawsuit or
23 otherwise, discussion of a 30-million-dollar
24 misallocation of funds at the February 2019
25 leadership meeting?

1 MR. PERLOWSKI: I just want to just remind
2 you, this is a general rule of thumb, not to reveal
3 any attorney-client privileged communications in
4 response to any of Mr. Hargrove's questions. I'm
5 not saying there are any; I'm just giving you that
6 reminder. You may answer.

7 A. Yes.

8 BY MR. HARGROVE:

9 Q. All right. Tell me what you're aware of.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. I don't --

22 MR. PERLOWSKI: Objection. Foundation.

23 BY MR. HARGROVE:

24 Q. Go ahead.

25 A. I was not aware specifically of who was

1 aware.

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 MR. PERLOWSKI: Object to the form.
7 Foundation. Speculation.

8 BY MR. HARGROVE:

9 Q. Correct?

10 A. Correct.

11 Q. I couldn't hear your answer, Mr. Muth. I
12 still can't hear you. You've gone silent. Still
13 didn't hear you.

14 A. Correct.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 [REDACTED]

19 Q. Okay. And that was the pie chart that was
20 put together before -- before the leadership
21 meeting; correct?

22 A. Correct.

23 Q. All right. And who did you have these
24 discussions about the pie chart with?

25 A. I believe it was with Christy Bunce and

1 Jason Obradovich.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 MR. PERLOWSKI: Object to the form.

8 A. I don't recall the conversation.

9 MR. PERLOWSKI: Object to the form.

10 Mischaracterizes testimony.

11 You can answer.

12 BY MR. HARGROVE:

13 Q. Go ahead.

14 A. I don't recall the specific conversation.

15 Q. All right. Well, tell me generally
16 everything you recall about that conversation.

17 A. I recall that I was asked to put it
18 together.

19 Q. Okay. And you did the pie chart, which
20 we'll look at in a little while; correct?

21 A. (Inaudible.)

22 Q. You'll have to say it again. It didn't
23 pick up.

24 A. Correct.

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. I saw you say correct, but all I got on the
6 record was the second syllable.

7 A. Correct.

8 Q. All right. And what gave you that belief
9 was your meeting with Ms. Bunce and Mr. Obradovich;
10 right?

11 A. When I was asked to produce the pie chart.
12 I'm not sure if that request came from Jason or
13 Christy.

14 Q. Okay. And you produced the pie chart. Did
15 they express surprise to you that there was \$30
16 million on the pie chart?

17 MR. PERLOWSKI: Object to the form.
18 Foundation.

19 BY MR. HARGROVE:

20 Q. You can answer.

21 A. Sorry, what was the question?

22 Q. The question is, did they express -- well,
23 let me withdraw that question.

24 Did they express surprise to you about
25 anything on the pie chart?

1 A. I believe I just probably e-mailed it to
2 them.

3 Q. Uh-huh.

4 A. I don't know if I had a response from them.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 MR. PERLOWSKI: Object to form.
10 Foundation. Speculation.

11 BY MR. HARGROVE:

12 Q. You didn't believe that?

13 A. I did not believe that they didn't know
14 about it.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1

2

A. I don't know. I didn't attend the meeting.

3

4

5

Q. All right. Did anyone communicate to you later, or did you learn after the fact, that that was part of the discussion at the meeting?

6

7

MR. PERLOWSKI: Objection. Speculation. Asked and answered.

8

9

A. I haven't talked to anyone regarding that meeting.

10

BY MR. HARGROVE:

11

12

13

14

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16

MR. PERLOWSKI: Objection. Foundation. Mischaracterizes testimony.

17

You can answer.

18

A. Can you say the question again?

19

BY MR. HARGROVE:

20

21

Q. Sure. You prepared the profit and loss statements for NAF for 2018; correct?

22

A. Correct.

23

24

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MR. PERLOWSKI: Objection. Foundation.

4

BY MR. HARGROVE:

5

Q. Do you believe that the 2018 profit and
loss statements that you prepared were accurate?

7

A. (Inaudible.)

8

Q. Your answer didn't come up.

9

A. Correct.

10

Q. All right.

11

MR. PERLOWSKI: Can we read that question
and answer back?

13

THE REPORTER: Yes.

14

(The reporter read the requested material.)

15

MR. PERLOWSKI: Thank you.

16

MR. HARGROVE: MaryBeth, can you upload

17

000739?

18

MR. PERLOWSKI: Mr. Muth, this will be in
the Exhibit Share location.

20

(Off-the-record discussion.)

21

(Plaintiff's Exhibit 1 marked)

22

BY MR. HARGROVE:

23

Q. What is Exhibit 1?

24

A. This is the OLA, which is the retail

25

division, corporate allocation breakdown in basis

1 points from 2018.

2 Q. Okay. Is this the pie chart that you
3 referred to earlier in the deposition?

4 A. Yes.

5 Q. All right. And you were asked to prepare
6 this document before the February leadership
7 meeting; correct?

8 MR. PERLOWSKI: Objection. Asked and
9 answered.

10 BY MR. HARGROVE:

11 Q. Correct?

12 A. Correct.

13 Q. All right. And you provided this document,
14 you believe, by e-mail to those who requested it?

15 A. Yes.

16 Q. All right. And is this pie chart all of
17 the corporate expenses or -- let me ask it this way.
18 What portion of the global corporate expenses for
19 NAF are reflected on this pie chart, Exhibit 1?

20 A. Corporate allocations that are allocated to
21 retail.

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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Q. Okay. All right. And this is a document that you said someone at NAF looked at, and you have the belief they were -- they didn't realize that these amounts were part of the calculation for 2018 for the retail division?

A. I believe so.

Q. Okay. Did anyone ask you any questions about this document after you e-mailed it to everyone?

A. Not that I recall.

Q. When did you learn that there -- that some people at NAF were -- did not know that these amounts reflected on Exhibit 1 should have been part of the P&L for 2018?

MR. PERLOWSKI: Objection.
Mischaracterizes testimony.

BY MR. HARGROVE:

Q. You can answer.

MR. PERLOWSKI: And foundation. Sorry.

1 You can answer.

2 A. I'm not aware specifically when.

3 BY MR. HARGROVE:

4 Q. Okay. Do you know if it was before or
5 after the leadership meeting?

6 MR. PERLOWSKI: Objection. Foundation.
7 Mischaracterizes testimony.

8 BY MR. HARGROVE:

9 Q. Go ahead, you can answer.

10 A. I believe it would be before.

11 Q. Okay. Were you asked to explain this pie
12 chart to anyone before the leadership meeting?

13 MR. PERLOWSKI: Objection. Asked and
14 answered.

15 A. I don't recall.

16 BY MR. HARGROVE:

17 Q. So that -- it could have happened, you just
18 don't remember it? You'll have to say it again.
19 I'm sorry.

20 A. Correct.

21 

22 

23 

24 

25 Q. And how was it determined that that is the

1 amount of legal fees/lawsuits that should be
2 allocated to the retail division?

3 A. During the period, we would look and see
4 where the legal expenses were coming from.

5 Q. All right. So all of these would have been
6 expenses that were incurred by or because of the
7 retail division? Your answer didn't register.

8 A. Not specifically these numbers.

9 Q. Okay. Did you do anything but just get a
10 number provided by the legal department and input it
11 into this chart?

12 A. It would come from AMB.

13 Q. From AMB? Okay. And was it just a number
14 input to AMB by the legal department that goes to
15 you?

16 A. It would be inputted by --

17 MR. PERLOWSKI: Objection to form.
18 Foundation.

19 BY MR. HARGROVE:

20 Q. Included by accounting?

21 A. Yes.

22 Q. All right. So all you did to put the
23 numbers into this pie chart, which numbers affected
24 the profitability of the retail division, was just
25 pull the numbers off of AMB that were input by

1 whichever department in NAF input them; correct?

2 A. Correct.

3 MR. PERLOWSKI: Objection. Foundation.

4 BY MR. HARGROVE:

5 Q. Correct?

6 A. (The witness nods.)

7 Q. All right. And there wasn't any further
8 analysis of, by way of example on the legal, whether
9 the legal fees had anything to do with the retail
10 division or not; correct?

11 A. Not to my knowledge.

12 Q. Okay. Was there someone other than you
13 that was involved in preparing the P&Ls?

14 A. Accounting.

15 Q. Accounting?

16 A. Accounting inputs the financials.

17 Q. All right. And then you take the numbers
18 that they input and create the P&Ls; correct?

19 A. Correct.

20 Q. And you don't have any knowledge about what
21 their process is for analyzing what the appropriate
22 amount of expense to be attributed to the retail
23 division is?

24 A. No.

25 Q. All right. Have you instructed them on how

1 they're supposed to do that?

2 A. No.

3 Q. Are you aware of anyone else instructing
4 them on how to do that?

5 A. No.

6 Q. All right. So as we sit here, do you know
7 whether the amounts on this pie chart are even
8 reflective of the amount of expense caused by the
9 retail division to the corporate entity?

10 A. This would be the allocations from
11 corporate to the retail division.

12 Q. But you don't know what the big number is
13 of corporate expense; correct?

14 A. Not off the top of my head, no.

15 Q. Okay. Well, what I'm asking, do you do any
16 calculation to make sure that this number
17 reflects -- the numbers reflected on Exhibit 1
18 reflects only the percentage attributable to the
19 retail division?

20 A. That would have been done. This is the
21 retail division.

22 Q. Okay. So you said "that would have been
23 done." Do you do that?

24 A. Yes.

25 Q. All right. So you look at the total

1 number, and then you analyze to make sure that the
2 numbers reflected on Exhibit 1 are only what's
3 attributable to the retail division?

4 A. Correct.

5 Q. So you go back and check against each
6 department what amount was -- what amount was input
7 into AMB, and you make sure that that's reflective
8 of the correct percentage?

9 A. The amount in AMB would be the full amount.
10 The amount here is what we're allocating to retail.

11 Q. All right. So AMB doesn't allocate it
12 down. You pull a number off AMB, and then you make
13 a calculation of what should be allocated to retail,
14 and that's what gets input on the P&L and is on
15 Exhibit 1?

16 A. Correct.

17 Q. All right. Are there any documents that
18 reflect those calculations?

19 A. Documents? No.

20 Q. All right. How do you make those
21 calculations, then, out of AMB and into the P&L?

22 A. Through Excel spreadsheets.

23 Q. All right. So there would be Excel
24 spreadsheets, then, that would reflect what the full
25 amount was and then what amount was attributable to

1 retail?

2 A. Correct.

3 Q. All right. And are those saved by year on
4 the computer system or by month, or how are they
5 saved?

6 A. They are saved monthly.

7 Q. All right. So in each of those monthly
8 Excel spreadsheets that are saved is what goes into
9 Kevlar and then gives the final product with the
10 bottom-line profit; correct?

11 A. Correct.

12 Q. And that bottom-line profit incorporates
13 for 2018 all these expenses reflected on Exhibit 1;
14 correct?

15 A. I'm not aware of that.

16 Q. You're not aware of that?

17 A. No.

18 Q. So you don't know whether your 2018 profit
19 and loss statements included all of the expenses
20 that are reflected on Exhibit 1?

21 A. No.

22 Q. All right. You earlier testified you
23 believe that the 2018 profit and loss statements
24 that you prepared were accurate; correct? It didn't
25 pick up your answer.

1 A. Correct.

2 Q. It still didn't pick it up.

3 A. Correct.

4 Q. Okay. So how is it that you believe those
5 are accurate when you're not sure if expenses on
6 Exhibit 1 were included?

7 A. Because of the various levels of corporate
8 allocations.

9 Q. Okay. Would all of the -- for bottom-line
10 profit, would all of these expenses on Exhibit 1 be
11 reflected for the financial statement to be
12 accurate?

13 A. That's correct.

14 Q. Okay. So bottom-line profit, that's CM3;
15 right? Isn't that what it was called then? It
16 didn't pick up your answer.

17 A. Correct.

18 Q. So the CM3 number on the 2018 P&Ls, you
19 don't know whether it includes these items on
20 Exhibit 1?

21 A. CM3, it would be included.

22 Q. Okay. And that's bottom-line profit;
23 correct?

24 A. Correct.

25 Q. And that's reflected on all of the

1 documents that are -- that are prepared by Kevlar;
2 correct?

3 MR. PERLOWSKI: Object to the form.

4 BY MR. HARGROVE:

5 Q. Kevlar P&Ls show bottom-line CM3; right?

6 A. No.

7 Q. I couldn't hear your answer.

8 A. Not always.

9 Q. Not always? So if Mr. Obradovich testified
10 that they always do, that would be inaccurate?

11 A. I believe so.

12 Q. Okay. Well, what are the circumstances
13 that profit and loss statements prepared in Kevlar
14 by you didn't include bottom-line profit? I
15 couldn't hear your answer.

16 A. Say that again.

17 Q. Sure. Under what circumstances would
18 profit and loss statements prepared by you not
19 include bottom-line profit?

20 A. Profit and loss prepared by me would
21 include all expenses and CM3.

22 Q. Okay. And that's what was discussed at
23 your meetings, correct, when you had meetings to
24 approve the P&Ls? It didn't pick up your answer.

25 A. Correct.

1 Q. All right. And that's what got distributed
2 by you to the NAF executives; correct?

3 A. Correct.

4 Q. So if someone wanted to print a Kevlar
5 report that didn't have bottom-line profit and loss,
6 they would have had to do that independently of what
7 you provided; correct?

8 A. Say that again.

9 Q. If someone wanted to produce a Kevlar
10 statement, accounting P&L that didn't include CM3
11 and actual bottom-line profit, they would have had
12 to do that independently of you; correct?

13 A. You can't exclude things from -- Kevlar
14 would only show what Kevlar shows. So I don't
15 follow your question.

16 Q. My question is, the only reports that you
17 distributed, the P&Ls, have the bottom-line profit
18 on them; correct?

19 A. I believe so.

20 Q. Okay. If someone was looking at another
21 document, a source other than you would have had to
22 go into Kevlar and prepare that document; correct?

23 MR. PERLOWSKI: Object to the form.
24 Foundation and speculation.

25 You can answer.

1 A. Say it again.

2 BY MR. HARGROVE:

3 Q. In order for someone to have a profit and
4 loss document from Kevlar that didn't include CM3
5 and bottom-line profit, that person would have had
6 to have it from a source other than you, who
7 prepared what you've testified are accurate profit
8 and loss statements that include all costs; correct?

9 A. Your question is little confusing. So I
10 would always report through CM3.

11 Q. Okay.

12 A. I'm not sure if that answers your question.

13 Q. No, that answers it. That answers it. Was
14 there any discussion of this pie chart with anyone
15 at NAF after the leadership meeting?

16 MR. PERLOWSKI: Object to the form of the
17 question. Foundation. Asked and answered.

18 BY MR. HARGROVE:

19 Q. I didn't hear your answer.

20 A. Not that I'm aware of.

21 Q. Was the first time that you saw this
22 document after you provided it to whomever asked for
23 it before that leadership meeting in preparation for
24 this deposition?

25 A. Say that again.

1 Q. Did you see this document between the time
2 you turned it over to whoever asked for it before
3 the February 2019 leadership meeting up until the
4 point you saw it preparing for this deposition?

5 A. Not that I'm aware of.

6 Q. Okay. And you don't recall discussing this
7 document with anyone up until the point of this
8 deposition; correct?

9 A. Correct.

10 MR. HARGROVE: MaryBeth, can you pull up
11 781?

12 (Plaintiff's Exhibit 2 marked)

13 A. Okay.

14 BY MR. HARGROVE:

15 Q. Do you have that up?

16 A. I do.

17 Q. All right. Set that to the side because
18 before we get to that, there's something else I want
19 to ask you.

20 After the leadership meeting in 2019, were
21 there any changes made to the way that NAF -- that
22 NAF reported P&L for the retail division?

23 A. I guess I don't understand your question.

24 Q. Sure. My understanding from talking with
25 Mr. Obradovich is there was CM1, CM2, and CM3 that

1 on the documents you prepare, there was always the
2 bottom-line CM3 profit. Is that -- am I accurate --
3 was he accurate to that point?

4 A. Correct.

5 Q. All right. Was anything changed about the
6 way corporate expenses were reflected on P&Ls after
7 the 2019 leadership meeting?

8 A. Most likely, yes.

9 Q. All right. And what were those changes?

10 A. We changed methodology.

11 Q. All right. How did the methodology change?

12 A. We went over that earlier.

13 Q. All right.

14 A. Different methods on cost per loan or basis
15 points.

16 Q. Okay. Got you. I'm with you. How about
17 the way it was -- is reported by you? Was there any
18 change in the way it was reported, the expenses are
19 reported by you on the P&Ls?

20 A. Not by me, no.

21 Q. Okay. By anyone else that you are aware
22 of?

23 A. Not that I'm aware of.

24 Q. All right. Do you know Scott Frommert?

25 A. I do.

1 Q. Okay. And how do you know Scott Frommert?

2 A. He used to be my boss for a little period
3 of time.

4 Q. All right. Did you-all work well together
5 while he was your boss?

6 A. Yes.

7 Q. All right. To your knowledge -- well, did
8 he ever ask you for any -- let me just talk with you
9 specifically. Did he ever ask you for any
10 information while he was your boss about the
11 finances of NAF and the accounting records, et
12 cetera?

13 A. At the time, yes.

14 Q. All right. Did you provide the information
15 that he asked for?

16 A. I would have.

17 Q. All right. Are you aware of him asking for
18 information that you were not privy to that he was
19 not provided?

20 A. Not that I'm aware of.

21 Q. Did he ever have any discussions with you
22 about not being provided information that he had
23 asked Mr. Arvielo for?

24 A. Not that I'm aware of.

25 Q. Did he ever have any discussions with you

1 about not being provided information after being
2 directed by Mr. Arvielo and Mr. Obradovich?

3 A. Not that I'm aware of.

4 Q. Do you have any knowledge as to
5 Mr. Frommert being upset that he wasn't able to see
6 every -- all the information he felt he needed to do
7 his job?

8 A. Not that I'm aware of.

9 Q. Did Mr. Frommert discuss with you why he
10 was departing NAF?

11 A. No.

12 Q. How did you find out he had departed NAF?

13 A. He -- I believe he was let go.

14 Q. Okay.

15 A. But I don't know for certain.

16 Q. How did you find out he had been let go?

17 A. Well, after he was, I don't know,
18 terminated or whatever the word used, I then went
19 back to reporting to Jason Obradovich.

20 Q. Okay. So you didn't have any discussion
21 with him. He was there one day; he was gone the
22 next, and that's the last time you saw or spoke to
23 him?

24 A. I've spoke to him since then.

25 Q. Tell me about your conversations with him

1 since then.

2 A. Just normal conversations, nothing specific
3 and work-related.

4 Q. Did you talk by phone or in person?

5 A. By phone.

6 Q. Okay. Who called who?

7 A. I believe we both called each other.

8 Q. All right. And do y'all -- did y'all
9 socialize outside of work?

10 A. No.

11 Q. All right. What was the purpose of the
12 calls?

13 A. I think just keeping in touch.

14 Q. Did you have any discussions with him about
15 him being deposed in this case?

16 A. No.

17 Q. All right. Did you have any discussions
18 with him about you being deposed in this case?

19 A. No.

20 Q. Did you have any discussions with him about
21 this case at all?

22 A. No.

23 Q. Let's look at Exhibit 2 now. Let me know
24 when you've got it up.

25 (Plaintiff's Exhibit 2 marked)

1 A. Is that a different one?

2 BY MR. HARGROVE:

3 Q. No. The one that was just uploaded.

4 A. Okay. I have it up.

5 Q. Okay. What's Exhibit 2?

6 A. I'm looking at a Kevlar report.

7 Q. All right.

8 A. Looks like it's a P&L from the southeast,
9 January 2018 through September 2018.

10 Q. Okay. This is the way it was produced to
11 us. Do you know why it's a January to September
12 profit and loss statement?

13 A. I'm guessing they asked for Q1 through Q3.

14 Q. So you don't know -- I'll represent to you
15 we didn't ask for a specific quarter. Who was the
16 "they" that you think asked for Q1 to Q3?

17 A. I don't know specifically who asked.

18 Q. Did you generate this report? Are you the
19 one who generated this for NAF to produce?

20 A. It probably came from me.

21 Q. All right. And does this look like the
22 reports that you would share with the NAF executives
23 each month?

24 A. With the regionals, yes.

25 Q. All right. What's -- you said "with the

1 regionals." Is there something else that you would
2 share with others?

3 A. Well, you said "executives."

4 Q. Okay. Well, who did you share -- who did
5 you send monthly P&Ls to after you prepared them?

6 A. This is in Kevlar. I wouldn't necessarily
7 send this out. People have access, and they would
8 look at it themselves.

9 Q. All right. So each month you would prepare
10 P&Ls, there would be a meeting to approve them. At
11 that meeting, would there be a printed off P&L that
12 you had prepared that individuals in the meeting
13 were privy to?

14 A. Yes.

15 Q. Okay. All right. So you don't know why,
16 except for speculating that you were asked just to
17 do Q1, Q2, and Q3, this only has January to
18 September of '18; correct?

19 A. Correct.

20 MR. PERLOWSKI: Objection. Asked and
21 answered.

22 BY MR. HARGROVE:

23 Q. The corporate margin at the bottom, is that
24 CM3, the allocation of all the expenses?

25 A. I don't know.

1 Q. I couldn't hear you. I'm sorry, it cut
2 out.

3 A. Not specifically.

4 Q. All right. How would you know?

5 A. I'd have to go and look and see what was
6 the level for corporate allocation 1, 2, or 3 and
7 see which number these are.

8 Q. When you prepared this report, what -- were
9 you asked to pull corporate margin 1, 2, or 3 level?

10 A. I was asked to pull a Kevlar report.

11 Q. All right. And so looking at this, you
12 can't tell whether it even includes all of the
13 expenses?

14 A. I can't.

15 Q. All right. Is there a reason you would
16 have pulled a report that didn't include all of the
17 expenses?

18 A. The Kevlar reports are only pulled one way.
19 You can't exclude stuff from Kevlar.

20 Q. You can't exclude stuff from Kevlar?

21 A. No.

22 Q. So necessarily, then, this would have to
23 include all of the expenses; right?

24 A. It would include what's loaded.

25 Q. All right. Well, if you say you can't

1 exclude things from Kevlar, explain to me that --
2 the difference there between can't exclude things
3 and it's only what's loaded.

4 A. So if you pull a report from Kevlar, I
5 can't say to exclude certain items from Kevlar.

6 Q. Okay.

7 A. You would get the full report. The
8 question would be what was loaded to Kevlar.

9 Q. Okay. So you're the one who would have
10 loaded things to Kevlar; correct?

11 A. No.

12 Q. All right. Who loaded things to Kevlar?

13 A. IT employees.

14 Q. Okay. The content that the IT employee
15 loaded into Kevlar, who did that come from?

16 A. That would come from me.

17 Q. Okay. So the information that got uploaded
18 in Kevlar, unless the IT people altered it in some
19 way, would be the information you input into Kevlar;
20 correct?

21 A. Correct.

22 Q. All right. Do you believe the IT people
23 eliminated expenses from what you submitted to them
24 so that this Kevlar report is inaccurate?

25 A. No.

1 MR. PERLOWSKI: Object to the form.

2 Foundation. Speculation.

3 You can answer.

4 BY MR. HARGROVE:

5 Q. So barring that happening, this report
6 would include all the corporate expenses; correct?

7 A. No.

8 Q. All right. Tell me a circumstance how this
9 report would not include all the expenses.

10 A. It could be loaded only through corporate
11 allocation 1.

12 Q. So IT -- all right. Let's take a step
13 back. You have the information that goes into
14 Excel. Does that include all corporate allocations?

15 A. In my Excel P&Ls, it includes all corporate
16 allocations.

17 Q. Okay. You give it to IT with instructions
18 to upload into Kevlar; right?

19 A. I give IT an upload file.

20 Q. All right. When you give IT the upload
21 file, explain to me how we could end up with a
22 Kevlar report that does not include all of the
23 corporate allocations if they're all included on the
24 file you asked IT to upload.

25 A. It's not included, only included for

1 corporate allocation 1.

2 Q. So your Excel spreadsheet only includes
3 corporate allocation 1?

4 A. The upload.

5 Q. So your Excel spreadsheet only -- includes
6 all of the expenses?

7 A. The Excel P&L includes all corporate
8 allocations.

9 Q. All right. Kevlar doesn't include all
10 corporate allocations?

11 A. Not in the beginning.

12 Q. And when is the beginning?

13 A. It was built out in 2018.

14 Q. So in 2018 Kevlar, the reporting software
15 for the retail division, did not include anything
16 but CM1?

17 A. To my knowledge.

18 Q. When did that change?

19 A. I don't recall specifically when.

20 Q. So if Mr. Obradovich said Kevlar always
21 included a bottom-line profit on it, that would be
22 inaccurate for 2018?

23 A. It includes a bottom-line profit, although
24 it might be the profit at CM1.

25 Q. Okay. And if Mr. Obradovich said that it

1 always included a bottom-line profit, then anyone
2 who read otherwise was making a mistake by looking
3 only at top-line revenue, that wouldn't be accurate
4 for 2018?

5 MR. PERLOWSKI: Object to the form.
6 Mischaracterizes his testimony.

7 You can answer.

8 A. Say that again.

9 BY MR. HARGROVE:

10 Q. Sure. If Mr. Obradovich testified that all
11 of the Kevlar reports had the bottom-line profit,
12 and that Mr. Arvielo just misread and looked at
13 top-line revenue, that would be wrong for 2018;
14 correct?

15 MR. PERLOWSKI: Object to the form.
16 Mischaracterizes testimony.

17 You can answer.

18 A. I'm not familiar with what Jason and Rick
19 Arvielo --

20 BY MR. HARGROVE:

21 Q. Well, if that's what Mr. Obradovich
22 testified to, that wouldn't be accurate because in
23 2018, Kevlar only included CM1?

24 MR. PERLOWSKI: Object to the form.
25 Foundation. Mischaracterizes testimony.

1 You can answer.

2 A. To my knowledge.

3 BY MR. HARGROVE:

4 Q. So you were involved in inputting this
5 information, and you had meetings about the P&Ls
6 with -- with the individuals you identified, and you
7 knew that these Kevlar reports didn't include all
8 the expenses; is that correct?

9 MR. PERLOWSKI: Object to the form.

10 A. Yes.

11 BY MR. HARGROVE:

12 Q. That's correct?

13 A. (The witness nods.)

14 Q. Yes?

15 A. Yes.

16 Q. Did you have discussions with these folks
17 about the fact that all of the expenses were not
18 included on the Kevlar report that you had input
19 into the spreadsheet?

20 A. Which individuals are you referring to?

21 Q. You said your monthly meetings on the P&Ls
22 were with Mr. Reed, Ms. Bunce, Ms. Preslo, and
23 Mr. Obradovich.

24 A. They would include CM1, 2, and 3 in those
25 meetings.

1 Q. All right. How would they see CM1, 2, and
2 3?

3 A. In the Excel P&Ls.

4 Q. All right. So they would see in the Excel
5 P&Ls, and they understood that the Excel P&Ls were
6 the actual accurate statements, financial P&Ls;
7 correct?

8 A. To my knowledge, yes.

9 Q. Okay. And then these Kevlar reports, you
10 provided the information to Kevlar. Did you see the
11 Kevlar reports?

12 A. Yes.

13 MR. PERLOWSKI: Objection to form.

14 BY MR. HARGROVE:

15 Q. All right. So do you have -- so obviously
16 in 2019 that changed and all the corporate expenses
17 began to be included in Kevlar; correct?

18 A. Yes.

19 Q. Was that a direct result of after the
20 leadership meeting?

21 A. I'm not aware of the change or why it was
22 changed.

23 Q. Well, you would agree with me that what was
24 in Kevlar before 2019, if those allocations should
25 have been made, would not be an accurate reflection

1 of the profitability of the retail division of NAF;
2 correct?

3 A. Yes.

4 Q. So when you referred to the profit and loss
5 statements that you prepared, you were not referring
6 to Kevlar, you were referring to the Excel
7 spreadsheets that you provided to IT that then got
8 uploaded into Kevlar?

9 A. Referring to the P&Ls I created in Excel.

10 Q. Okay. Do you have any understanding of how
11 Kevlar excluded certain expenses from the P&Ls?

12 A. It was loaded through CM1.

13 Q. And is that the way that NAF, to your
14 knowledge, I know you got there in 2017, but is that
15 the way that NAF judged the profitability of its
16 retail divisions up through 2019, using CM1?

17 MR. PERLOWSKI: Object to the form.

18 Speculation. You can answer. And foundation.

19 You can answer.

20 A. Look at CM1, 2, and 3.

21 BY MR. HARGROVE:

22 Q. All right. But before Kevlar -- you were
23 there when Kevlar got introduced; right?

24 A. Yes.

25 Q. All right. Did you express concern that

1 Kevlar did not accurately depict the financial
2 statements, the profit and loss?

3 A. No.

4 Q. Did it concern you that Kevlar did not
5 accurately reflect the profit and loss for the
6 retail division?

7 A. No.

8 Q. Why did it not concern you?

9 A. The concern is we were still looking at
10 CM1, 2, and 3.

11 Q. And "we" was those of you who were in the
12 monthly meetings about profit and loss statements;
13 correct?

14 A. Correct.

15 Q. All right. And you had no reason to
16 believe anyone didn't understand that; correct?

17 A. Correct.

18 Q. All right. And so the reason you can't
19 tell me for sure whether all the expenses are
20 included on Exhibit 2 is this is a 2018 statement,
21 and if it was printed before the change in 2019, it
22 wouldn't reflect anything but CM1; correct?

23 A. Correct.

24 Q. All right. Do you know when this statement
25 was printed, Exhibit No. 2?

1 A. Not specifically.

2 Q. All right. Do you know when it was
3 created?

4 A. Not specifically.

5 Q. And if we were given a report on metadata
6 that says it was created on June 5th, 2015, there's
7 no way that can be accurate; correct?

8 A. I don't believe so.

9 MR. PERLOWSKI: Object to form.

10 MR. HARGROVE: MaryBeth, can you upload the
11 metadata chart? We'll make that Exhibit 3.

12 BY MR. HARGROVE:

13 Q. While she's uploading that, is Kevlar the
14 only information that's given to the regionals?

15 MR. PERLOWSKI: Object to the form.

16 A. I'm not aware of what all regionals are
17 provided.

18 BY MR. HARGROVE:

19 Q. Did you share -- your P&L in Excel, was
20 that password-protected?

21 A. It may have been.

22 Q. Well, is it now currently password-
23 protected?

24 A. Some of our finals are password-protected,
25 some aren't. I don't know which ones.

1 Q. So you don't know if the Excel spreadsheet
2 is password-protected or not, that you prepare each
3 month?

4 A. No.

5 Q. Did you send that Excel spreadsheet in 2018
6 out to any of the regional managers?

7 A. I don't recall.

8 Q. Okay. It's possible you did?

9 A. Possibly. I don't remember.

10 Q. All right. Well, on a monthly basis, is
11 that something you would normally do?

12 A. Yes, possibly.

13 Q. All right. So we might find e-mails where
14 you, on a monthly basis, sent your Excel spreadsheet
15 that had up to CM3 in it to regional managers in
16 2018?

17 A. (Inaudible.)

18 Q. I'm sorry?

19 A. I don't know.

20 Q. Okay. What about Kevlar reports? Did you
21 send those to regional managers in 2018?

22 A. I don't know.

23 Q. All right. If you sent them, would they
24 have been from your work e-mail address?

25 A. Yes.

1 (Plaintiff's Exhibit 3 marked)

2 BY MR. HARGROVE:

3 Q. All right. Is Exhibit 3 uploaded?

4 A. Yes.

5 Q. If you look at Exhibit 3, I'll represent to
6 you this was purportedly metadata for the documents
7 included in Exhibit 2, which was document 000781.
8 And it indicates a creation date of June the 5th,
9 2015. Do you see that?

10 A. Which row are you on?

11 Q. Look on the second page, Row 000044 says
12 NAF 0000781, top one on the second page.

13 MS. GIBSON: Travis, the printed version
14 looks different from the online version.

15 BY MR. HARGROVE:

16 Q. Okay. It's the second to last one from the
17 bottom.

18 MR. PERLOWSKI: It would be Row 27.

19 A. Okay. I see it.

20 BY MR. HARGROVE:

21 Q. All right. And you see that has a created
22 date of June 5th, 2015?

23 A. I see that.

24 Q. All right. You would agree with me that a
25 report for 2018 couldn't have been created June 5th

1 of 2015, wouldn't you?

2 A. I would.

3 Q. You would agree with me; correct? All
4 right. And --

5 MR. PERLOWSKI: I didn't hear an answer.

6 A. Correct.

7 BY MR. HARGROVE:

8 Q. All right. And then on a modified date, it
9 says January 28, 2022. Did you modify this document
10 on January 28, 2022, in any way?

11 A. No.

12 Q. All right. Do you know what that modified
13 date would mean?

14 A. I don't know.

15 Q. Okay.

16 MR. HARGROVE: MaryBeth, could you upload
17 000733.

18 (Plaintiff's Exhibit 4 marked)

19 BY MR. HARGROVE:

20 Q. Let me know when you've got it up.

21 A. I have it up.

22 Q. All right. Do you recognize this document?

23 A. I do.

24 Q. All right. What is this document?

25 A. Looks like the retail P&L from January

1 through November 2018.

2 Q. All right. Did you prepare this document?

3 A. I believe I would have.

4 Q. All right. For what purpose did you
5 prepare this document?

6 A. I don't recall.

7 Q. All right. Do you know when you prepared
8 this document?

9 A. I don't recall.

10 Q. Would it have been recently?

11 A. No.

12 Q. All right. So you don't remember for what
13 purpose you prepared the document, and you don't
14 remember when you prepared the document; correct?

15 A. Not specifically, no.

16 Q. All right. What does this document tell
17 us?

18 A. It tells us the retail P&L from the period
19 of January through November 2018.

20 Q. And this is for all of retail or just some
21 portion of retail?

22 A. All of retail.

23 Q. All right. Does this include all of the
24 expenses of retail?

25 A. Yes.

1 Q. All right. And that has -- that's because
2 it's got, I see CM1, CM2, and CM3, those are all the
3 expenses?

4 A. Correct.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. Was this document initially prepared
9 without CM2 and CM3?

10 A. Not to my knowledge.

11 Q. Were CM2 and CM3 added in -- added into the
12 calculation so that the regional managers could be
13 paid less?

14 A. Not to my knowledge.

15 MR. PERLOWSKI: Did you say "not to my
16 knowledge"?

17 A. Not to my knowledge.

18 BY MR. HARGROVE:

19 Q. When Kevlar was altered to add CM2 and CM3,
20 were you involved in any of the discussions about
21 that taking place?

22 A. No.

23 Q. And do you have any knowledge as to why
24 that took place?

25 A. No.

1 Q. Do you know whether Exhibit 4 was prepared
2 before the February 2019 leadership meeting?

3 A. It might have been.

4 Q. All right. Were you asked to prepare
5 multiple documents before that meeting?

6 A. I was.

7 Q. Okay. And this might have been one of
8 those. You know the pie chart was one of those;
9 correct?

10 A. Correct.

11 Q. All right. And this might have been -- for
12 what other purpose -- can you think of any other
13 purpose for which you would have prepared Exhibit 4?

14 A. Not necessarily.

15 MR. HARGROVE: MaryBeth, can you upload?
16 734.

17 MR. PERLOWSKI: Can we take a short break?

18 MR. HARGROVE: That's fine, yes. Let's
19 take five.

20 (Recess 5:46 to 5:54 p.m.)

21 BY MR. HARGROVE:

22 Q. If I go back, Mr. Muth, to Exhibit No. 3,
23 the only prepared created date that we have -- and
24 you can let me know when you have that up --

25 A. I have it up.

1 Q. -- is October 27, 2021. It's the second
2 row down on that. Do you believe October 27, 2021
3 is when Exhibit No. 4 was created? If you look at
4 the second line down, it's number 000733, October
5 27, 2021?

6 MR. PERLOWSKI: Objection.

7 A. No, I would not agree that it was created
8 in 2021.

9 BY MR. HARGROVE:

10 Q. All right.

11 MR. HARGROVE: MaryBeth, can you upload
12 734?

13 MS. GIBSON: I'm going to delete Exhibit 6
14 and you can use Exhibit 5.

15 BY MR. HARGROVE:

16 Q. Let me know when you've got Exhibit 5 in
17 front of you.

18 (Plaintiff's Exhibit 5 marked)

19 A. I have it up.

20 BY MR. HARGROVE:

21 Q. All right. And do you recognize Exhibit 5?

22 A. I do.

23 Q. Okay. What is Exhibit 5?

24 A. I believe it's looking at the southeast P&L
25 from 2018.

1 Q. Did you prepare Exhibit 5?

2 A. I would have.

3 Q. All right. Do you know when you prepared
4 it?

5 A. Not exactly.

6 Q. Would it have been before the leadership
7 meeting or after?

8 A. I believe it would have been before.

9 Q. All right. The metadata shows a created
10 date of November 3rd, 2021. You would agree with me
11 that's not when this document was created? Correct?
12 Did you say correct? We didn't pick it up.

13 A. Correct.

14 Q. All right. And were you involved in
15 sharing this document, Exhibit 5, with anyone?

16 A. I may have been. I don't recall.

17 Q. Did you ever have any meetings with
18 Ms. Spearman or Ms. Allison about P&Ls or
19 financials?

20 A. I believe we had a meeting.

21 Q. Okay. And tell me about that meeting.

22 A. I think it was just a meeting to go over
23 some of the data from 2018.

24 Q. All right. Where did that meeting take
25 place?

1 A. In Tustin, California.

2 Q. All right. And were they -- what did they
3 have to say about the 2018 financials?

4 A. I don't remember specifically what they had
5 to say.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Did they express concern about the -- about
12 the financials to you?

13 A. I don't recall specifically.

14 Q. Do you recall anything about the meeting?

15 A. I was in the meeting for a short period of
16 time in the beginning, and then I had left the
17 meeting.

18 Q. Okay. Were they upset?

19 A. I don't recall how they were reacting.

20 Q. Did -- did they seem surprised that --
21 well, did you gather that they believed 2018 had
22 been a profitable year for their region?

23 A. I don't recall.

24 Q. Okay. But do you know whether this was a
25 document shown to them in that meeting?

1 A. It might have been.

2 Q. Okay. Can you think of any other purpose
3 for which this document, Exhibit 5, would have been
4 prepared?

5 A. Just to show the profit and loss.

6 MR. HARGROVE: MaryBeth, can you upload
7 735. That will be Exhibit 6 to your deposition.

8 MS. GIBSON: That would be Exhibit 7.

9 MR. PERLOWSKI: We'll just agree that
10 Exhibit 6 is not being introduced.

11 (Plaintiff's Exhibit 7 marked)

12 BY MR. HARGROVE:

13 Q. All right. So Exhibit 7. And let me know
14 when it's up. And my question for you is going to
15 be, do you recognize this document?

16 A. (Inaudible.)

17 Q. Do you recognize it? I can't hear you.

18 A. I have it up.

19 Q. I didn't understand you that time.

20 A. I have the document up.

21 Q. Do you recognize this document?

22 A. Vaguely.

23 Q. All right. What is it?

24 MR. PERLOWSKI: And take your time to look
25 at it if you need to.

1 A. Looks like a regional summary from 2018.

2 BY MR. HARGROVE:

3 Q. Is this a document that you prepared?

4 A. I don't recall specifically if I prepared
5 this.

6 Q. Who other than you would have had the
7 access to the information needed to prepare this
8 document?

9 A. Probably Kristin Ankeny.

10 Q. Okay. All right. Do you know what, if
11 anything, this document was used for?

12 A. No.

13 Q. Do you know when the document was created?

14 A. No.

15 Q. Do you know why it was produced in this
16 case?

17 A. No.

18 Q. Okay.

19 MR. HARGROVE: MaryBeth, if you can load
20 734.

21 MS. GIBSON: 734 is Exhibit 5 and 6. We've
22 already looked at that. Let's agree Exhibit 8 is a
23 duplicate.

24 MR. PERLOWSKI: We'll just strike Exhibit 8
25 as well.

1 MR. HARGROVE: Let's load 737.

2 (Plaintiff's Exhibit 9 marked)

3 BY MR. HARGROVE:

4 Q. Let me know when you've got Exhibit 9 in
5 front of you, Mr. Muth.

6 A. I have it.

7 Q. And do you recognize this document?

8 A. Vaguely.

9 Q. All right. Can you tell me what it is?

10 A. Looks like it's a post lock concession
11 report from 2018.

12 Q. What's a post lock concession?

13 A. A post lock concession is a price exception
14 that's given after the initial lock.

15 Q. Okay. And did you prepare this document?

16 A. I don't believe so, no.

17 Q. All right. Do you know who prepared it?

18 A. No, I don't.

19 Q. Do you know when it was prepared?

20 A. No, I don't.

21 Q. Do you know why it was prepared?

22 A. Not specifically.

23 Q. Do you generally know why it was prepared?

24 A. It looks like it's comparing the southeast
25 to the rest of the retail division.

1 Q. Okay. And do you know why this was
2 produced in this case, Exhibit No. 9?

3 A. Not specifically.

4 Q. All right. Do you -- do you generally know
5 why it would have been produced in this case?

6 MR. PERLOWSKI: Objection. Asked and
7 answered.

8 A. I missed that, I'm sorry.

9 BY MR. HARGROVE:

10 Q. You said "not specifically." I said, do
11 you generally know why it was produced in this case,
12 since you don't know specifically?

13 A. Looking at it, it's comparing all of --
14 sorry, retail versus the southeast, where the
15 southeast has much higher basis points of post lock
16 concessions.

17 Q. Okay. Did the southeast have more volume
18 overall than other regions?

19 A. They do.

20 Q. All right. Was it one of the highest
21 volume regions for NAF for 2018?

22 A. It would have been.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1



2



3

Q. Okay.

4

MR. HARGROVE: MaryBeth, if you can load
738, which will be Exhibit 10.

6

(Plaintiff's Exhibit 10 marked)

7

BY MR. HARGROVE:

8

Q. When it's up, let me know.

9

A. I have it up.

10

Q. All right. And what -- have you seen
Exhibit 10 before?

11

12

A. I have.

13

Q. All right. When have you seen it?

14

A. I created it.

15

Q. All right. And when did you create it?

16

A. It would have been sometime in early 2019.

17

Q. All right. What was the purpose of you
creating this document in early 2019?

18

19

A. Looks like we're just looking at
discretionary expenses and marketing expenses.

20

21

Q. And who is "we" that were looking at
discretionary expenses and marketing expenses? I
couldn't hear you.

22

23

24

A. Say that again.

25

Q. Sure. Who is the "we"? You said "we" were

1 looking at discretionary and marketing expenses.
2 Who's the "we" who was looking at discretionary and
3 marketing expenses?

4 A. That would be myself, Gina, and Kelly, and
5 probably Jon Reed, Christy, and Jason.

6 Q. Was this for a meeting that took place in
7 person?

8 A. I believe this might have been one of the
9 documents during the meeting in Tustin.

10 Q. Okay.

11 A. I don't know a hundred percent sure,
12 though.

13 Q. Were you involved in any discussions about
14 this document?

15 A. I would have been.

16 Q. All right. Tell me what you recall about
17 the discussions relating to this document.

18 MR. PERLOWSKI: Object to the form.
19 Foundation.

20 You can answer.

21 A. It's just discussing the expenses that are
22 at the branch and the region level. So this is
23 directly the spend coming from Gina and Kelly's
24 region in the southeast.

25 BY MR. HARGROVE:

1 Q. Was this included in any of the corporate
2 expenses, or is this just expenses attributable to
3 the southeast region?

4 A. It's just the expenses from the southeast
5 region.

6 Q. Okay. And where did you pull the
7 information that was used to create this document,
8 Exhibit 10, from?

9 A. It would come from AMB.

10 Q. From AMB? Okay.

11 MR. HARGROVE: MaryBeth, 743, please.

12 (Plaintiff's Exhibit 11 marked)

13 BY MR. HARGROVE:

14 Q. Let me know when you've got it up. This
15 will be Exhibit 11.

16 A. Okay.

17 Q. All right. And what is Exhibit 11?

18 A. It's a Kevlar report for the southeast from
19 October 2018 through December 2018.

20 Q. And previously we looked at one that was
21 January to September. And I'll ask you, do you
22 know -- now that you've seen this one as well, do
23 you know why they were separated out like this?

24 A. No.

25 Q. All right. Do you know why initially the

1 only Kevlar report that we received was this one,
2 Exhibit 11, that just showed October through
3 December of '18?

4 A. No.

5 Q. If you look at this, did this include all
6 of the corporate allocations or just some of the
7 corporate allocations?

8 MR. PERLOWSKI: Object to the form.

9 You can answer.

10 I didn't hear his answer.

11 A. I don't know.

12 BY MR. HARGROVE:

13 Q. You don't know? All right. If a 2018
14 report was printed after the change in 2019, would
15 it include all of the corporate allocations?

16 A. Which change?

17 Q. The change to where there was -- all the
18 corporate allocations were included in Kevlar that
19 you testified about earlier, you said in 2018, it
20 was only CM1 in Kevlar?

21 A. Correct.

22 Q. All right. So if this was printed in 2018,
23 then it wouldn't have it all, but if it was printed
24 after, it would; correct?

25 A. If it was printed after the change,

1 correct.

2 Q. Okay. Is there a way for us to know
3 whether this was printed before or after the change?

4 A. Not by looking at it.

5 Q. Okay. Are copies of the Kevlar reports
6 printed contemporaneously with when they're
7 generated and maintained? And by that I mean, would
8 I be able to go back to June of 2018 and find a
9 contemporaneously printed then June 2018 Kevlar P&L?

10 A. Sure.

11 Q. All right.

12 MR. HARGROVE: MaryBeth, can you load 774?
13 And this will be Exhibit 12.

14 (Plaintiff's Exhibit 12 marked)

15 BY MR. HARGROVE:

16 Q. Have you got it up?

17 A. Yes.

18 Q. Okay. Do you recognize Exhibit 12?

19 A. Vaguely.

20 Q. All right. Can you tell me what Exhibit 12
21 is?

22 A. It looks like a P&L by region.

23 Q. Okay. Is this a document you prepared?

24 A. It might have been. I'm not sure.

25 Q. All right. Do you know when it was

1 prepared?

2 A. No.

3 Q. Do you know why it was prepared?

4 A. No.

5 Q. Do you know why it was produced in this
6 case?

7 A. No.

8 Q. And what does this document tell us?

9 A. It shows, by region, volume all the way
10 through CM3.

11 Q. All right. And CM3 would be bottom-line
12 profit; is that correct?

13 A. Correct.

14 MR. PERLOWSKI: I didn't hear the answer to
15 that, Travis.

16 A. Correct.

17 BY MR. HARGROVE:

18 Q. And you have no idea when this was
19 prepared?

20 A. No, I don't.

21 Q. All right. If the metadata sheet, Exhibit
22 3, says January 7, 2022, would you have an opinion
23 as to whether that is accurate as to the date this
24 document was prepared?

25 A. I'm not aware of it.

1 Q. And you don't know if you prepared this
2 document or not?

3 A. I don't believe so, no.

4 Q. You don't believe so?

5 A. I don't know if I created this document or
6 not.

7 Q. Okay. For these documents that we've been
8 looking at, if you created them, would they be
9 maintained -- do you maintain a separate file,
10 electronic or otherwise, for documents that you
11 prepare?

12 A. Sometimes.

13 Q. All right. Did you search those files for
14 documents that were responsive to our production
15 requests in this case?

16 A. Yes.

17 Q. All right. And did you produce documents
18 out of there that you had prepared?

19 A. Yes.

20 Q. Did you produce any documents out of your
21 computer and files that were not documents you had
22 prepared?

23 A. Say that again.

24 Q. Were there documents that you produced in
25 this case other than documents that you didn't

1 prepare?

2 A. I don't understand the question.

3 Q. All right. You produced -- you said you
4 went to your files. You maintain files of documents
5 that you prepared. And you searched those files for
6 responsive documents in this case; correct?

7 A. Yes.

8 Q. And you produced some documents that you
9 prepared; correct?

10 A. Yes.

11 Q. Did you produce any documents, you to your
12 counsel, that were not documents that you prepared
13 for this case?

14 A. No.

15 Q. Okay. So if it came from you to your
16 counsel, it's a document that you in fact prepared;
17 correct?

18 A. If I prepared a document, then I prepared
19 the document.

20 Q. But if you produced it to your counsel, it
21 was one of the documents you prepared, not a
22 document someone else prepared; correct?

23 A. I would believe so, yes.

24 MR. HARGROVE: MaryBeth, can you load 782?

25 (Plaintiff's Exhibit 13 marked)

1 BY MR. HARGROVE:

2 Q. This will be Exhibit 13. Let me know when
3 you've got it up.

4 A. I've got it up.

5 Q. Do you recognize Exhibit 13?

6 A. Vaguely.

7 Q. All right. Did you prepare Exhibit 13?

8 A. I believe so.

9 Q. All right. What is Exhibit 13?

10 A. It looks like a P&L from 2017.

11 Q. A P&L for what for 2017?

12 A. I couldn't tell you.

13 Q. How is it, if you don't know what it's a
14 P&L for, that you believe you prepared it?

15 A. I didn't say I thought I prepared it.

16 Q. I guess I misunderstood you. So you don't
17 know who prepared it?

18 A. (Inaudible.)

19 Q. You'll have to say it again. It didn't
20 register.

21 A. I don't know who prepared it.

22 Q. Okay. And you don't know what it is, other
23 than it's a P&L for something for 2017?

24 A. Correct.

25 Q. All right. And you don't know when it was

1 prepared; correct?

2 A. No.

3 Q. All right.

4 MR. HARGROVE: MaryBeth, if you can do 783,
5 which will be Exhibit 14.

6 (Plaintiff's Exhibit 14 marked)

7 BY MR. HARGROVE:

8 Q. Once you've got it up, Mr. Muth, my
9 question for you is, do you recognize Exhibit 14?

10 A. I do.

11 Q. Do you recognize 14?

12 A. I do.

13 Q. All right. What is Exhibit 14?

14 A. Looks like P&Ls from various years.

15 Q. All right. P&Ls for various years for
16 what?

17 A. I believe it's from the southeast.

18 Q. Okay. Why is it you believe it's from the
19 southeast?

20 A. Just based off whenever they've been put
21 together.

22 Q. Okay. Did you prepare Exhibit 14?

23 A. I might have.

24 Q. All right. Do you know when you might have
25 prepared it?

1 A. I'd say in the last six months, five
2 months, four months, I'm not sure.

3 Q. And what would have caused you to prepare
4 this document, Exhibit 14, in the last few months?

5 A. I was asked to prepare it.

6 Q. You were asked to prepare it?

7 A. Yes.

8 Q. All right. Were you asked by your counsel
9 to prepare it?

10 A. I don't know --

11 MR. PERLOWSKI: Please answer that with a
12 yes or no.

13 A. I don't recall who had asked for it. It
14 may have been counsel.

15 BY MR. HARGROVE:

16 Q. All right. But it might have been someone
17 other than counsel? Can you tell me what you were
18 trying to show for this case with Exhibit 14?

19 MR. PERLOWSKI: Again, I want to instruct
20 you not to reveal any privileged communications in
21 connection with your answer. Subject to that, you
22 can answer.

23 A. It just would have been a P&L for the
24 various time periods.

25 BY MR. HARGROVE:

1 Q. Okay.

2 MR. HARGROVE: MaryBeth, do you mind
3 hitting 784. And this one's a little bigger, but
4 hopefully it won't take too long.

5 A. I have it up.

6 (Plaintiff's Exhibit 15 marked)

7 BY MR. HARGROVE:

8 Q. And that will be Exhibit 15. I'll ask if
9 you recognize Exhibit 15.

10 A. Do not.

11 Q. Have you ever seen Exhibit 15 before?

12 A. I have not.

13 Q. All right. Do you have any idea what
14 Exhibit 15 is?

15 A. No.

16 Q. You have no idea what it is?

17 A. No.

18 Q. All right.

19 MR. HARGROVE: MaryBeth, do you mind
20 loading the next one, which will be 16.

21 (Plaintiff's Exhibit 16 marked)

22 BY MR. HARGROVE:

23 Q. Did you say you had it up?

24 A. Yes. It looks like the one we just looked
25 at.

1 Q. Okay. And you've never seen that document
2 before?

3 A. No.

4 Q. Don't recognize it, don't know what it is?

5 A. No.

6 Q. All right.

7 MR. HARGROVE: Well, let's load the last
8 one, then, MaryBeth, if you don't mind.

9 MS. GIBSON: All right.

10 (Plaintiff's Exhibit 17 marked)

11 BY MR. HARGROVE:

12 Q. Have you got it up?

13 A. I do.

14 Q. Do you recognize Exhibit No. 17?

15 A. I do not.

16 Q. Okay. Have you ever seen Exhibit 17
17 before?

18 A. I have not.

19 Q. Do you have any idea what Exhibit 17 is?

20 A. No.

21 MR. HARGROVE: All right. Well, let us
22 take a couple minutes. I think we're pretty close
23 to finished. Let me talk with my co-counsel. Let's
24 take about five, and may have a little bit more or
25 may be finished, sir. If you'll stand by, we'll

1 take a quick break.

2 (Recess 6:26 to 6:28 p.m.)

3 MR. HARGROVE: Mr. Muth, that's all we have
4 for you today. I appreciate your time.

5 MR. PERLOWSKI: I don't have anything for
6 Mr. Muth.

7 (Deposition concluded at 6:28 p.m.)

8 (Signature reserved.)

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2022.



LaRita J. Cormier, RPR, CCR No. 2578

1 To: Henry M. Perlowski, Esquire
2 Re: Signature of Deponent Jim Muth
3 Date Errata due back at our offices: 30 days
4

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6 The deponent has reserved the right to read and
7 sign. Please have the deponent review the attached
8 PDF transcript, noting any changes or corrections on
9 the attached PDF Errata. The deponent may fill out
10 the Errata electronically or print and fill out
11 manually.
12

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4 ____ There are no changes noted.

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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